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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ANTOINE L. ARDDS,  
CDCR No. P-59915,

Plaintiff,

v.

D. HODGE; L. ROMERO; D.  
PARAMO; P. BARAMONTE; G.  
VALDOVINOS; RENTERIA; C.  
GARDINEZ; McGEE; SMITH,

Defendants.

CASE NO. 16cv2904-WQH-BLM  
ORDER

HAYES, Judge:

The matters before the Court are various Motions for Injunctive Relief (ECF Nos. 30, 33, 43, 47, 50, 52, 58, 63, 68, 70) filed by Plaintiff Antoine L. Ardds.

**I. Procedural Background**

Antoine L. Ardds (“Plaintiff”), proceeding pro se, is currently incarcerated at the Corcoran State Prison, located in Corcoran, California. On November 16, 2016, Plaintiff filed a document entitled “Coloring Agreement,” which the Court construed as a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1). In the three months after filing his complaint, Plaintiff filed the following documents: two certified copies of his inmate trust account statement, which the Court construed as a Motion to Proceed In Forma Pauperis (“IFP”) pursuant to 28 U.S.C. § 1915(a) (ECF Nos. 2, 15); a Supplemental Complaint (ECF No. 8); two documents titled Ex Parte Motions, which the Court construed to be Supplemental Documents in Support of Complaint (ECF Nos. 12, 14); a Motion for Preliminary Injunction (ECF No. 6); a Motion to Dismiss

1 Improperly Named Defendant (ECF No. 10); and an Ex Parte Notice (ECF No. 4).

2 On February 28, 2017, this Court granted Plaintiff's Motion to Proceed In Forma  
3 Pauperis, denied the Motion for Preliminary Injunction, granted the Motion to Dismiss  
4 an improperly named defendant, and dismissed the Complaint for failing to state a claim  
5 upon which relief could be granted. (ECF No. 18). On March 27, 2017, Plaintiff filed  
6 a First Amended Complaint ("FAC"). (ECF No. 23). On May 4, 2017, this Court  
7 found Plaintiff's FAC "contained factual content sufficient to survive the 'low  
8 threshold' for proceeding past the sua sponte screening required by 28 U.S.C. §§  
9 1915(e)(2) and 1915A(b)." (ECF No. 24 at 9).

10 Plaintiff has filed ten motions for injunctive relief (ECF Nos. 30, 33, 43, 47, 50,  
11 52, 58, 63, 68, 70) and eleven declarations in support of the requested remedial  
12 measures (ECF Nos. 54, 60, 61, 64, 65, 76, 77, 80, 82, 88, 90) for alleged "continued  
13 [] acts of intimidation, harassment, threats, physical assaults on disable [sic] E.O.P.  
14 patients," "hinderance [sic] of Plaintiff's access to other district courts," "failing to send  
15 Plaintiff's legal boxs [sic], legal mail," (ECF No. 50 at 2,7) and improper denial of  
16 single-cell status (ECF No. 64 at 3). On August 8, 2017 the Court ordered Defendants  
17 to reply to six Motions for Preliminary Injunction (ECF Nos. 30, 33, 43, 47, 50, 52) that  
18 Plaintiff had filed at the time. (ECF No. 53). On August 28, 2017, Defendants filed a  
19 response in opposition to the six motions for injunctive relief identified by the Court,  
20 and one motion (ECF No. 63) filed by Plaintiff subsequent to the Court's order. (ECF  
21 No. 66 at 1). On September 14, 2017, Plaintiff filed a motion requesting an extension  
22 for his reply to Defendants' opposition (ECF No. 73), which the Court granted on  
23 September 19, 2017. (ECF No. 74). Plaintiff has filed additional declarations in  
24 support of his previously filed motions (ECF Nos. 76, 77, 80, 82, 88, 90) and two  
25 additional motions for injunctive relief (ECF Nos. 68, 70).

26 On November 20, 2017, Plaintiff filed his reply to Defendants' Response to his  
27 motions for injunctive relief. (ECF No. 92).

28 **II. Contentions**

1 Plaintiff contends that (1) he has “been continuously harassed and denied access  
2 to legal property” (ECF No. 30 at 1); (2) his “legal boxes at RJD, have been destroyed  
3 per order by Defendant D. Paramo” (ECF No. 33 at 1); and (3) his four transfers since  
4 February 2017 are a result of Defendants’ efforts to “hinder plaintiff’s access to the  
5 courts by hiding him in other facilit[ies].” (ECF No. 50 at 13). Plaintiff further  
6 contends that the refusal by Defendants to place him on single cell status has put him  
7 at “substantial risk of harm from other inmates.” (ECF No. 43 at 4). Plaintiff also  
8 makes claims about alleged assaults on inmates not party to this case and requests that  
9 the Court order an investigation of the alleged assaults. (ECF Nos. 50, 63). Plaintiff  
10 requests that the Court order Defendants to “release [his] legal property so that [he] may  
11 respond to Court deadlines,” (ECF No. 33 at 2) “place him on single cell status,” (ECF  
12 No. 43 at 4) and “rehouse [him] on a safer and constitutional [sic] secured facility.”  
13 (ECF No. 50 at 3). Plaintiff requests that the Court “order CDCR’s direct [sic]  
14 secretary, Scott Kernan to conduct an adequate investigation into the assault and battery  
15 upon inmates Dion Terrell . . . and K. Flemmings.” *Id.* at 10.

16 Defendants contend that Plaintiff has not satisfied the requirements for injunctive  
17 intervention by the Court. (ECF No. 66 at 2). Specifically, Defendants contend that  
18 Plaintiff has not established “a likelihood of success on the merits of his underlying  
19 claim,” a “risk of irreparable injury if his motions are not granted,” or “the balance of  
20 hardships that would result if his motions are denied tip in his favor.” *Id.* at 2.  
21 Defendants contend that Plaintiff’s various requests for injunctive relief are “overly  
22 broad, vague, and based on speculation.” *Id.* at 4. Defendants support this contention  
23 by offering the docket reports for cases currently being litigated by Plaintiff in other  
24 courts. Defendants assert the docket reports establish that Plaintiff has not been denied  
25 access to legal materials or access to the courts. *Id.* at 5. Defendants contend that  
26 Plaintiff has not provided any “evidence that he meets the criteria for single-cell status.”  
27 *Id.* at 6. Defendants contend that Plaintiff has provided only “vague assertions” that he  
28 is unsafe at Richard J. Donovan Correctional Facility (“RJD”) and that without any

1 concrete evidence or allegation of specific facts, “it is difficult for Defendants to submit  
2 evidence to counter Plaintiff’s vague assertions.” *Id.* at 6. Lastly, Defendants contend  
3 that “the Court cannot issue orders to defense counsel or outside agencies to conduct  
4 investigations with regard to inmates that are not party to this case.” *Id.* at 10.

5 **III. Legal Standard**

6 Rule 65(b) of the Federal Rules of Civil Procedure allows the Court to issue a  
7 temporary restraining order or a preliminary injunction. Fed. R. Civ. P. 65(b). When  
8 the nonmovant has received notice, as here, the standard for issuing a temporary  
9 restraining order is the same as that for issuing a preliminary injunction. *See Stuhlberg*  
10 *Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

11 To obtain preliminary injunctive relief, a movant must show “that he is likely to  
12 succeed on the merits, that he is likely to suffer irreparable harm in the absence of  
13 preliminary relief, that the balance of equities tips in his favor, and that an injunction  
14 is in the public interest.” *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008);  
15 *see also Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).  
16 At a minimum, “the moving party must demonstrate a significant threat of irreparable  
17 injury.” *Arcamuzi v. Cont’l Air Lines, Inc.*, 819 F.2d 935, 937 (9th Cir. 1987) (citation  
18 omitted). “Issuing a preliminary injunction based only on a possibility of irreparable  
19 harm is inconsistent with our characterization of injunctive relief as an extraordinary  
20 remedy that may only be awarded upon a clear showing that the plaintiff is entitled to  
21 such relief.” *Winter*, 555 U.S. at 22.

22 **A. Access to Legal Materials**

23 Prisoners have a constitutional right of access to the courts. *See Lewis v. Casey*,  
24 518 U.S. 343, 346 (1996). This right “requires prison authorities to assist inmates in  
25 the preparation and filing of meaningful legal papers by providing prisoners with  
26 adequate law libraries or adequate assistance from persons trained in the law.” *Bounds*  
27 *v. Smith*, 430 U.S. 817, 828 (1977); *see also Phillips v. Hurst*, 588 F.3d 652, 655 (9th  
28 Cir. 2009).

1 To establish a violation of the right of access to the courts a prisoner must allege  
2 facts sufficient to show that: (1) a nonfrivolous legal attack on his conviction, sentence,  
3 or conditions of confinement has been frustrated or impeded, and (2) he has suffered an  
4 actual injury as a result. *See Lewis*, 518 U.S. at 353-55; *Christopher v. Harbury*, 536  
5 U.S. 403, 415 (2002) (to state an access to courts violation, plaintiff must describe the  
6 non-frivolous nature of the “underlying cause of action, whether anticipated or lost”).  
7 The prisoner must demonstrate that he has suffered or will imminently suffer actual  
8 injury. *Lewis*, 518 U.S. at 348. Delays in providing legal materials or assistance that  
9 result in actual injury are “not of constitutional significance” if “they are the product of  
10 prison regulations reasonably related to legitimate penological interests.” *Id.* at 362.

11 In this case, the fact that Plaintiff has a pending “non-frivolous” civil action  
12 which raises a constitutional challenge to the conditions of his confinement does not  
13 entitle him to a preliminary injunction. *See James v. Emmens*, Case No.: 3:16-cv-  
14 02823-WQH-NLS (S.D. Cal. Jan. 31, 2017). To meet the “irreparable harm”  
15 requirement, Plaintiff must do more than simply allege imminent harm; he must  
16 demonstrate it. *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th  
17 Cir. 1988). Plaintiff must provide specific facts demonstrating that he faces a credible  
18 threat of immediate and irreparable harm, unless an injunction issues. Fed. R. Civ. P.  
19 65(b). “Speculative injury does not constitute irreparable injury sufficient to warrant  
20 granting a preliminary injunction.” *Caribbean Marine Servs, Co., Inc.*, 844 F.2d at  
21 674-75.

22 Plaintiff claims he has been “continuously harassed and denied access to legal  
23 property,” (ECF No. 30 at 1), that his “legal boxes at RJD, [were] destroyed per order  
24 by Defendant D. Paramo,” (ECF No. 33 at 1), and that unspecified persons have  
25 “fail[ed] to send [his] legal boxs [sic], legal mail, [and are] keep[ing] outgoing legal  
26 correspondence from the courts.” (ECF No. 50 at 7). Plaintiff fails to identify the nature  
27 of the materials, the relevance of the materials to his pending litigation, or “actual  
28 prejudice with respect to [his] existing litigation, such as the inability to meet a filing

1 deadline or to present a claim.” *Lewis*, 518 U.S. at 348.

2 Defendants request judicial notice of the dockets in three district court cases that  
3 Plaintiff is currently litigating. (ECF No. 66-1). A court ““may take notice of  
4 proceedings in other courts, both within and without the federal judicial system, if those  
5 proceedings have a direct relation to matters at issue.”” *Bias v. Moynihan*, 508 F.3d  
6 1212, 1225 (9th Cir. 2007) (quoting *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n.2  
7 (9th Cir. 2002)) (alterations in original). Accordingly, this Court takes judicial notice  
8 of docket proceedings in *Ardds v. Pizano, et al.*, Northern Dist. Cal. Civil Case No.  
9 3:15-cv-00686-JCS, *Ardds v. Pizano, et al.*, Northern Dist. Cal. Civil Case No. 5:16-cv-  
10 01389-EJD, and *Ardds v. Constancio, et al.*, Eastern Dist. Cal. Civil Case No. 2:17-cv-  
11 00679-EFB. (ECF No. 66-1 at 4-25). The docket in each of these proceedings indicates  
12 that Plaintiff is actively litigating each case. Plaintiff’s claims of denied access to legal  
13 materials are general and Plaintiff does not offer evidence of a specific period during  
14 which he was denied access to legal materials.

15 Plaintiff also alleges that “[d]efendants continue to hinder plaintiff’s access to  
16 courts by hiding him in other facilit[ies] with the agreement of fellow wardens to delay  
17 all legal mail process.” (ECF No. 50 at 13). While Plaintiff has been transferred to  
18 several different prisons within California since he first commenced this action,  
19 Plaintiff fails to provide facts indicating that these transfers were retaliatory. In fact,  
20 Plaintiff’s motions indicate that Plaintiff sought a transfer from RJD. Plaintiff  
21 requested a protective order or transfer because “defendants are trying to keep me  
22 housed at RJD, even upon their acknowledgment of the substantial risk of harm,” (ECF  
23 No. 52 at 3), and because he was not “getting [the] mental health services” he required.  
24 (ECF No. 60 at 2).<sup>1</sup>

25 Plaintiff fails to offer sufficient evidence to establish that the transfers or alleged  
26 destruction of legal materials significantly hindered his ability to litigate claims before  
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28 <sup>1</sup> Plaintiff is currently housed in California State Prison, Corcoran (CSP-COR).  
The Court concludes that any request to transfer from RJD is moot.

1 the Court. The Court concludes that Plaintiff has failed to establish a threat of  
2 irreparable harm or likelihood of success on the merits with regard to access to legal  
3 materials. Plaintiff's requests for injunctive relief related to his legal materials are  
4 denied.

5 **B. Single-cell Status**

6 Plaintiff claims the failure of defendants and other parties not named in this case  
7 to grant him single-cell status has created "a substantial risk of harm from other inmates  
8 placed in his cell." (ECF No. 43 at 4). Although Plaintiff need not wait for an injurious  
9 event to occur to seek injunctive relief, Plaintiff has not shown a real or immediate  
10 threat of retaliation or injury. *Cf. Helling v. McKinney*, 509 U.S. 25, 33 (1993) (stating  
11 that it "would be odd to deny an injunction to inmates who plainly proved an unsafe,  
12 life-threatening condition in their prison on the ground that nothing yet has happened  
13 to them").

14 In his FAC, Plaintiff alleges that Defendants used Plaintiff's cellmate as "an  
15 instrument of attack to harm Plaintiff." (FAC at 7). Plaintiff alleges his cellmate  
16 "attempted to carry out an assault under the influence of speed or heroin." *Id.* at 20.  
17 Plaintiff asserts it was a "failed attempt." *Id.* This alleged incident at a facility in which  
18 Plaintiff is not currently housed does not amount to an immediate threat of irreparable  
19 harm warranting injunctive relief. Plaintiff is not currently housed at RJD. (ECF No.  
20 85). The Court concludes that Plaintiff's request for single-cell status at RJD is moot.  
21 *See Dilley v. Gunn*, 64 F.3d 1365, 1368 (9th Cir. 1995) (noting that when an inmate has  
22 been released from custody or transferred to another prison and there is no reasonable  
23 expectation or demonstrated probability that he will again be subjected to the conditions  
24 from which he seeks injunctive relief, his claim for injunctive relief should be dismissed  
25 as moot). The Court denies Plaintiff's request for injunctive relief granting him single-  
26 cell status.

27 **C. Claims Regarding Other Inmates**

28 Plaintiff alleges that "[f]or the last year defendants L. Romero, G. Valdovinos,

1 A. Renteria, W. Smith, S. McGee, C. Gardinez, and D. Hodge have continued their  
2 assaults upon ‘C’ yard’s E.O.P. mentally disabled inmate population” and that “each  
3 [defendant] has continued their acts of intimidation, harassment, threats, physical  
4 assaults on disabled E.O.P. patients.” (ECF No. 50 at 6, 7). Plaintiff requests that the  
5 Court order an “investigat[ion] into the assault and battery upon [other] inmates . . . who  
6 were victims of unnecessary use of force. (ECF No. 50 at 10).

7 A federal court’s jurisdiction can be invoked only when the plaintiff himself has  
8 suffered “some threatened or actual injury resulting from the putatively illegal action.”  
9 *Warth v. Seldin*, 422 U.S. 490, 499 (1975). The court may not determine the rights of  
10 persons not before it. *See, e.g., Hitchman Coal & Coke Co. v. Mitchell*, 245 U.S. 229,  
11 234-35 (1916); *Zepeda v. INS*, 753 F.2d 719, 727-28 (9th Cir. 1983) (“A federal court  
12 may issue an injunction if it has personal jurisdiction over the parties and subject matter  
13 jurisdiction over the claim; it may not attempt to determine the rights of persons not  
14 before the court.”).

15 In this case, Plaintiff requests relief for prisoners not party to this action in  
16 relation to alleged actions by prison officials not party to this action. The Court lacks  
17 jurisdiction to determine the rights of individuals not party to this case.

18 **IV. Conclusion**

19 IT IS HEREBY ORDERED that Plaintiff’s motions (ECF Nos. 30, 33, 43, 47,  
20 50, 52, 58, 63, 68, and 70) for injunctive relief are DENIED.

21 DATED: November 22, 2017

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23 **WILLIAM Q. HAYES**  
24 United States District Judge

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