

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

THADDEUS STACY,

CV. 08-6412-KI

Plaintiff,

ORDER

v.

RODD CLARK, et al.,

Defendants.

KING, Judge

Plaintiff, currently an inmate at Coffee Creek Correctional Facility, brings this civil rights action against Jefferson and Crook County officials, *pro se*. Currently before the court is plaintiff's motion for a preliminary injunction.

Defendants have not filed an opposition to plaintiff's motion for preliminary injunction because they have yet to be served with plaintiff's second amended complaint. Although this court seeks waiver of service from institutional defendants on behalf of prisoners proceeding *in forma pauperis*, the court has yet to do so in this case because plaintiff has indicated his intent to file a third amended complaint. (See Order (#9) & Motion (#10).)

Plaintiff recently sought an extension to July 6, 2009, to file his third amended complaint. (Motion (#14).)

In plaintiff's pending motion for preliminary injunction, he seeks an order compelling officials of the Oregon Department of Corrections (ODOC) to provide him access to legal materials in his cell presumably in excess of that permitted by Or. Rule Admin. P. 291-117-0100. Because no ODOC official is a party to this proceeding, the motion is denied. See Zepeda v. INS, 753 F.2d 719, 727 (9<sup>th</sup> Cir. 1985) (federal court may not issue injunction so as to determine the rights of persons not properly before the court); Fed. R. Civ. P. 65(d) (injunction or restraining order is binding only upon *parties* or those in privity).

**CONCLUSION**

Based on the foregoing, plaintiff's motion for preliminary injunction (#12) is DENIED.

IT IS SO ORDERED.

DATED this 29<sup>th</sup> day of June, 2009.

/s/ Garr M. King  
Garr M. King  
United States District Judge