

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Kendall v. Brazil

Kendall v. Brazil · No. 2:24-cv-3801 CSK P · Decided February 28, 2025

OPINION

(PC) Kendall v. Brazil

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 ADAM KENDALL, No. 2:24-cv-3801 CSK P 12 Plaintiff,

13 v. ORDER AND FINDINGS AND

RECOMMENDATIONS

14 BRAZIL, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se, and is currently housed at California State 18 Prison, Corcoran (“CSP-COR”). Plaintiff filed a motion for temporary restraining order and 19 preliminary injunction along with his civil rights complaint under 42 U.S.C. § 1983. The Court 20 has not yet screened the complaint. On January 24, 2025, the Court requested that the Office of 21 the Attorney General provide a response to plaintiff’s motion. (ECF No. 7.) Following a brief 22 extension of time, the Office of the Attorney General, by special appearance, provided a response. 23 (ECF No. 11.) On February 26, 2025, plaintiff’s reply was entered on the Court’s docket.¹ As 24 1 Under the prison mailbox rule, a pleading filed by a pro se prisoner is deemed to be filed as of 25 the date the prison delivered it to the prison authorities for mailing to the court clerk. See *Houston v. Lack*, 487 U.S. 266, 270 (1988); *Douglas v. Noelle*, 567 F.3d 1103, 1108-09 (9th Cir. 26 2009) (mailbox rule articulated in *Houston* applies to civil rights actions). Plaintiff’s proof of service was dated February 20, 2025, but under Local Rule 230(l), his reply was due on February 27 18, 2025. Although plaintiff’s reply was late, the Court will consider the reply. Plaintiff is cautioned, however, that as a pro se litigant he is also required to comply with Court deadlines 28 and, if unable to do so, he must request an extension of time before the deadline expires. 1 discussed below, the Court recommends that plaintiff’s motion for temporary restraining order 2 and preliminary injunction (ECF No. 2) be denied.

3 I. PLAINTIFF’S COMPLAINT

4 In his complaint, plaintiff alleges that while he was housed at Mule Creek State Prison 5 (“MCSP”) from March 22, 2024, to October 10, 2024, he suffered systemic retaliation in 6 violation of the First Amendment, an unreasonable strip search in violation of the Fourth 7 Amendment, excessive force in violation of the Eighth Amendment, deliberate indifference in 8

violation of the Eighth Amendment, as well as various state law violations. (ECF No. 1 at 20.) 9 Plaintiff claims that all of these violations resulted in plaintiff being issued 17 rule violation 10 reports (“RVRs”), more than he has received at any other prison in eight years, all in retaliation 11 for plaintiff filing grievances or advising the correctional officer that plaintiff would file a 12 grievance against him or her. (Id. at 21.) Plaintiff included multiple causes of action in support 13 of his claims. (Id. at 23-91.) 14 Plaintiff alleges that he “was thrown in the hole” at CSP-COR because he “was attacked 15 by MCSP prison guards.” (Id. at 22.) 16 As relief, plaintiff seeks a declaratory judgment, and an injunction requiring Warden 17 Covello to: (a) require every prison guard to wear a body camera, (b) record all inmates’ 18 disciplinary hearings, (c) immediately address the systemic retaliation and other misconduct at 19 MCSP, and (d) halt training any new prison guards for MCSP “until the systemic retaliation is 20 rooted out and the toxic culture of MCSP changed.” (Id. at 92-106.) Plaintiff also asks the Court 21 to appoint a special master to carry out the injunction, and seeks compensatory and punitive 22 damages. (Id. at 106-08.)

23 II. LEGAL STANDARDS

24 Federal Rule of Civil Procedure 65 governs injunctions and restraining orders, and 25 requires that a motion for temporary restraining order include “specific facts in an affidavit or a 26 verified complaint [that] clearly show that immediate, and irreparable injury, loss, or damage will 27 result to the movant before the adverse party can be heard in opposition,” as well as written 28 certification from the movant’s attorney stating “any efforts made to give notice and the reasons 1 why it should not be required.” Fed. R. Civ. P. 65(b). 2 Temporary restraining orders are generally governed by the same standard applicable to 3 preliminary injunctions, except that preliminary injunctions require notice to the adverse party. 4 See *Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 5 (E.D. Cal. 2001); Fed. R. Civ. P. 65(a). Eastern District of California Local Rule 231 requires 6 notice for temporary restraining orders as well, “[e]xcept in the most extraordinary of 7 circumstances,” and the court considers whether the applicant could have sought relief by motion 8 for preliminary injunction at an earlier date. E.D. Cal. Local Rule 231(a)-(b). A temporary 9 restraining order “should be restricted to serving [its] underlying purpose of preserving the status 10 quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.” 11 *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 12 423, 439 (1974). 13 A temporary restraining order is “an extraordinary remedy” and may be issued only if 14 plaintiff establishes: (1) likelihood of success on the merits; (2) likelihood of irreparable harm in 15 the absence of preliminary relief; (3) that the balance of equities tips in his/her favor; and (4) that 16 an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 17 (2008). Plaintiff bears the burden of clearly satisfying all four prongs. *Alliance for the Wild 18 Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). A temporary restraining order will not 19 issue if plaintiff merely shows irreparable harm is possible—a showing of likelihood is required. 20 Id. at 1131.

21 The injunctive relief an applicant requests must relate to the claims brought in the 22
complaint. See *Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 633 (9th Cir.
23 2015) (“When a Plaintiff seeks injunctive relief based on claims not pled in the complaint, the
24 court does not have the authority to issue an injunction.”). Absent a nexus between the injury
25 claimed in the motion and the underlying complaint, the court lacks the authority to grant
plaintiff 26 any relief. *Id.* at 636; see also *Beaton v. Miller*, 2020 WL 5847014, at *1 (E.D. Cal.
Oct. 1, 2020) 27 (the court’s jurisdiction is “limited to the parties in this action” and the pendency
of an action 28 “does not give the Court jurisdiction over prison officials in general or over the
conditions of an inmate’s confinement unrelated to the claims before it.”). 2 The Prison
Litigation Reform Act (“PLRA”) imposes additional requirements on prisoner 3 litigants seeking
preliminary injunctive relief against prison officials. In such cases, 4 “[p]reliminary injunctive
relief must be narrowly drawn, extend no further than necessary to 5 correct the harm the court
finds requires preliminary relief, and be the least intrusive means 6 necessary to correct that
harm.” 18 U.S.C. § 3626(a)(2); *Villery v. California Dep’t of Corr.*, 7 2016 WL 70326, at *3 (E.D.
Cal. Jan. 6, 2016). As the Ninth Circuit observed, the PLRA places 8 significant limits upon a
court’s power to grant preliminary injunctive relief to inmates, and 9 “operates simultaneously to
restrict the equity jurisdiction of federal courts and to protect the 10 bargaining power of prison
administrators—no longer may courts grant or approve relief that 11 binds prison administrators
to do more than the constitutional minimum.” *Gilmore v. People of the State of California*, 220
F.3d 987, 998-99 (9th Cir. 2000).

13 III. PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING ORDER AND 14 PRELIMINARY INJUNCTION

15 Plaintiff’s motion for a temporary restraining order and preliminary injunction seeks an 16
order “to immediately halt his transfer back to MCSP to avoid further bodily injury and further 17
civil rights violations,” and asks the Court to “restore the status quo and place him at a level 3 18
facility consistent with the level 3 override he earned before being forced to MCSP and becoming
19 the victim of [defendants’] retaliation.” (ECF No. 2 at 1, 7.) Plaintiff also asks the Court to 20
decide where plaintiff should be housed to avoid further retaliation, although he asks to be housed
21 at California Medical Facility (“CMF”) or California Men’s Colony (“CMC”) because those 22
prisons are single cell facilities which would enable plaintiff “to prosecute this case better, finish
23 getting the requisite college credits, and continue his legal studies.” (ECF No. 2 at 7.) 24
Plaintiff claims he was transferred from MCSP to CSP-COR “because plaintiff is part of a 25
mental health program that they do not offer at MCSP.” (*Id.* at 12.) Plaintiff states that at a
26 December 4, 2024 committee at CSP-COR, plaintiff was informed he would remain in the hole
27 until March, and then he would be returned to MCSP. (*Id.*) Plaintiff contends that if he “is 28
forced to return to MCSP, he will face further irreparable injury and further bodily injury.” (*Id.*) 1
In addition, plaintiff claims he remains in the hole at CSP-COR, 2 has been subjected to 2
excessive force, is being deprived of sleep, and is not permitted legal materials. (*Id.* at 3 8.)

Plaintiff intends to amend his complaint to include these new claims and defendants, claiming 4 such new claims arose out of the incidents alleged in his complaint. (Id.)

5 IV. DISCUSSION

6 The Court finds that plaintiff's motion should be denied because plaintiff improperly 7 seeks injunctive relief for claims not raised in the complaint. Plaintiff's motion to stop his 8 transfer back to MCSP is not based on the claims raised in the complaint. Although plaintiff 9 raises other causes of action, the gravamen of plaintiff's complaint is that he suffered systemic 10 retaliation at MCSP in violation of the First Amendment, and in the complaint, he does not seek 11 an injunction prohibiting his housing at MCSP. (See ECF No. 1 at 106-08.) As discussed above, 12 the Court cannot grant injunctive relief regarding claims not raised in the complaint. See *Pac. 13 Radiation Oncology, LLC.*, 810 F.3d at 633. Because plaintiff's motion for injunctive relief is 14 not based on the claims raised in the complaint, such claims should be pursued in a separate 15 action. 16 Plaintiff asserts that his motion is related to the retaliation claims in his complaint because 17 he was put into the RHU at CSP-COR because of the retaliation he suffered at MCSP. But the 18 Ninth Circuit is clear that the nexus must be to the claims raised in the underlying complaint. *Id.* 19 at 636. Absent such nexus, the court lacks the authority to grant plaintiff any relief. *Id.*; see also 20 *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994) (finding prisoner's claim for injunctive 21 relief based on retaliation for bringing the lawsuit was entirely different and separate from the 22 underlying conduct raised in the civil rights action). Whether plaintiff can be safely housed at 23 MCSP is not part of plaintiff's underlying complaint. Because plaintiff's motion for injunctive 24 relief prohibiting his housing at MCSP is not included in his complaint, plaintiff's motion should 25 be denied. 26 27 2 Plaintiff refers to "the hole" and "administrative segregation" (ECF No. 2 at 12), but defendants provided evidence that plaintiff is held in a Restrictive Housing Unit ("RHU") at CSP-COR. The 28 Court will refer to the RHU. 1 Further, plaintiff seeks restoration of his level-3 override. (ECF No. 2 at 1.) But plaintiff 2 also did not seek this relief in his complaint. (ECF No. 1 at 106-08.) Such omission was 3 appropriate because a prisoner does not have a right to a particular classification or custody level 4 under the Due Process Clause. See *Myron v. Terhune*, 476 F.3d 716, 718 (9th Cir. 2007) 5 (concluding California prisoner does not have liberty interest in residing at a level-3 prison as 6 opposed to level-4 prison); *Hernandez v. Johnston*, 833 F.2d 1316, 1318 (9th Cir. 1987) ("[A] 7 prisoner has no constitutional right to a particular classification status.") (quotation marks and 8 citation omitted). Inmates do not have a right to be housed in any particular prison. See 9 *Meachum v. Fano*, 427 U.S. 215, 224-25 (1976) (conviction sufficiently extinguishes prisoner's 10 liberty interest and empowers the state to confine him in any of its prisons; no liberty interest 11 protected by the Due Process Clause is implicated in a prison's reclassification and transfer 12 decisions). Moreover, plaintiff confirms that level-3 facility placement is required for inmates 13 with a placement score of 36 through 59 points. (ECF No. 2 at 7 n.* (citing Cal. Code. Regs., tit. 14 15 § 3375.1 subd. (a)(3)).) But plaintiff admits he has 63 points. (*Id.* at 7.) Thus, housing in a

15 level-3 facility is not required. 16 Therefore, it is recommended that plaintiff's motion be denied.

17 V. UNRELATED CLAIMS

18 A plaintiff may properly assert multiple claims against a single defendant. Fed. Rule Civ. 19 P. 18. In addition, a plaintiff may join multiple defendants in one action where "any right to relief 20 is asserted against them jointly, severally, or in the alternative with respect to or arising out of the 21 same transaction, occurrence, or series of transactions and occurrences" and "any question of law 22 or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2). Unrelated 23 claims against different defendants, however, must be pursued in separate lawsuits. See George 24 v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). This rule is intended, in part, "to prevent the sort of 25 morass [a multiple claim, multiple defendant] suit produce[s]." Id. 26 Here, in his motion, plaintiff raised issues concerning incidents at CSP-COR unrelated to 27 the claims raised in his complaint. For example, plaintiff claims that while housed in the RHU at 28 CSP-COR, he has been subjected to excessive force, deprived of sleep and his legal materials, 1 | and claims he intends to amend his complaint to include these new claims and name new 2 | defendants. (ECF No. 2 at 8.) However, such allegations are not related to the retaliation claims 3 || raised in his complaint because they took place at a different prison and would involve different 4 || correctional officers or other prison staff at CSP-COR. Just because plaintiff was housed in the 5 || RHU at CSP-COR in response to events at MCSP, does not mean that plaintiff's claims 6 || concerning the conditions of confinement in the RHU at CSP-COR arose from the same 7 || transaction, occurrence, or series of transactions and occurrences that took place at MCSP as 8 | defined by the Federal Rules. Fed. R. Civ. P. 20(a)(2). Therefore, the Court cannot consider 9 || these unrelated claims raised by plaintiff in his motion.

10 | VI. CONCLUSION

11 For the reasons stated herein, this Court recommends that plaintiff's motion for temporary 12 || restraining order and preliminary injunction (ECF No. 2) be denied. 13 The Clerk of the Court is also directed to serve a copy of these findings and 14 || recommendations on Jon S. Allin, Supervising Deputy Attorney General (ECF No. 11). 15 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court is 16 || directed to assign a district judge to this case. 17 Further, IT IS HEREBY RECOMMENDED that plaintiff's motion for temporary 18 || restraining order and preliminary injunction (ECF No. 2) be denied. 19 These findings and recommendations are submitted to the United States District Judge 20 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within fourteen days 21 || after being served with these findings and recommendations, plaintiff may file written objections 22 || with the court and serve a copy on all parties. Such a document should be captioned 23 || "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that 24 || failure to file objections within the specified time may waive the right to appeal the District 25 || Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). 26 27 || Dated: February 27, 2025 /kend3801

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UNITED STATES MAGISTRATE JUDGE

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