

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Richard Thomas Hamilton v. NaphCare Incorporated

No. CV-25-03451-PHX-JAT (JZB) (D. Ariz. Dec. 5, 2025) · No. CV-25-03451-PHX-JAT (JZB) · Decided

December 8, 2025

OPINION

Richard Thomas Hamilton v. NaphCare Incorporated

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Richard Thomas Hamilton, No. CV-25-03451-PHX-JAT (JZB) 10 Plaintiff, 11 v. ORDER 12
NaphCare Incorporated, 13 Defendant. 14 15 Plaintiff Richard Thomas Hamilton, who is currently
confined in the Arizona State 16 Prison Complex (ASPC)-Lewis, filed a pro se civil rights
Complaint pursuant to 42 U.S.C. 17 § 1983. Before the Court is Plaintiff’s Motion for Preliminary
Injunction (Doc. 9). The 18 Motion is fully briefed. (Docs. 15, 17.)1 The Court will deny the
Motion. 19 I. Background 20 On screening Plaintiff’s Complaint under 28 U.S.C. § 1915A(a), the
Court found 21 Plaintiff stated Eighth Amendment medical care claims against Defendant
NaphCare, the 22 private entity responsible for providing medical care to Arizona Department of
23 Corrections, Rehabilitation & Reentry (ADCRR) prisoners. (Doc. 8.) The Court directed 24
NaphCare to answer the Complaint and respond to Plaintiff’s concurrently filed Motion for 25
Preliminary Injunction. (Id.) 26 27 28 1 The docket erroneously identifies Plaintiff’s Reply to
Defendants’ Response to Motion for Preliminary Injunction (Doc. 17) as a new Motion for
Preliminary Injunction. The Court will direct the Clerk of Court to correct this entry. 1 II.
Injunctive Relief Standard 2 “A preliminary injunction is ‘an extraordinary and drastic remedy,
one that should 3 not be granted unless the movant, by a clear showing, carries the burden of
persuasion.’” 4 Lopez v. Brewer, 680 F.3d 1068, 1072 (9th Cir. 2012) (quoting Mazurek v.
Armstrong, 520 5 U.S. 968, 972 (1997) (per curiam)); see also Winter v. Natural Res. Def.
Council, Inc., 555 6 U.S. 7, 24 (2008) (citation omitted) (“A preliminary injunction is an
extraordinary remedy 7 never awarded as of right.”). Nonetheless, “federal courts must not shrink
from their 8 obligation to enforce the constitutional rights of all persons, including prisoners” and
must 9 not “allow constitutional violations to continue simply because a remedy would involve 10
intrusion into the realm of prison administration.” Porretti v. Dzurenda, 11 F.4th 1037, 11 1047
(9th Cir. 2021) (citation omitted). 12 A plaintiff seeking a preliminary injunction must show that:
(1) he is likely to 13 succeed on the merits, (2) he is likely to suffer irreparable harm without an
injunction, 14 (3) the balance of equities tips in his favor, and (4) an injunction is in the public

interest. 15 Winter, 555 U.S. at 20. “But if a plaintiff can only show that there are ‘serious questions 16 going to the merits’—a lesser showing than likelihood of success on the merits—then a 17 preliminary injunction may still issue if the ‘balance of hardships tips sharply in the 18 plaintiff’s favor,’ and the other two Winter factors are satisfied.” *Shell Offshore, Inc. v. 19 Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013) (quoting *Alliance for the Wild 20 Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)). Under this serious-questions 21 variant of the Winter test, “[t]he elements . . . must be balanced, so that a stronger showing 22 of one element may offset a weaker showing of another.” *Lopez*, 680 F.3d at 1072. When 23 the government opposes a preliminary injunction, “[t]he third and fourth factors of the 24 preliminary-injunction test—balance of equities and public interest—merge into one 25 inquiry.” *Porretti*, 11 F.4th at 1047. The “balance of equities” concerns the burdens or 26 hardships to a prisoner complainant compared with the burden on the government 27 defendants if an injunction is ordered. *Id.* The public interest mostly concerns the 28 injunction’s impact on nonparties rather than parties. *Id.* (citation omitted). Regardless, 1 “[i]t is always in the public interest to prevent the violation of a party’s constitutional 2 rights.” *Id.* (citation omitted). 3 Regardless of which standard applies, the movant “has the burden of proof on each 4 element of the test.” See *Env’t Council of Sacramento v. Slater*, 184 F. Supp. 2d 1016, 5 1027 (E.D. Cal. 2000). 6 The Prison Litigation Reform Act imposes additional requirements on prisoner 7 litigants who seek preliminary injunctive relief against prison officials and requires that 8 any injunctive relief be narrowly drawn and the least intrusive means necessary to correct 9 the harm. 18 U.S.C. § 3626(a)(2); see *Gilmore v. People of the State of Cal.*, 220 F.3d 987, 10 999 (9th Cir. 2000). 11 III. Motion for Injunctive Relief 12 In his Motion for Preliminary Injunction, Plaintiff alleges the following facts.2

13 In 2019, while he was incarcerated at ASPC-Eyman, Plaintiff was violently attacked 14 by other prisoners, who repeatedly struck his face, neck, and throat, causing serious injuries 15 to Plaintiff’s throat and vocal cords. (Doc. 9 at 3, 4.) Plaintiff continues to have difficulty 16 breathing, talking, eating dry foods, and drinking thick liquids, and he suffers regular 17 headaches, insomnia, severe throat pain, and symptoms such as light-headedness, 18 consistent with partial hypoxia due to low air flow. (*Id.* at 3–5.) 19 From the time Plaintiff was injured until October 1, 2022, Centurion was ADCRR’s 20 contracted medical care provider. (*Id.* at 4, 5.) Several weeks after the attack, Plaintiff was 21 taken to an offsite ear, nose, and throat (ENT) specialist, Dr. Boyle, who said he was unable 22 to treat Plaintiff but recommended that Plaintiff be taken to Dr. Lott at Mayo Clinic in 23 Phoenix, Arizona. (*Id.* at 5.) Centurion medical staff instead only monitored Plaintiff 24 every few months and did not provide any further care until June 12, 2020, even though 25 Plaintiff continued to submit health needs requests (HNRs) and reported ongoing 26 symptoms. (*Id.* at 6.) 27 28 2 These facts largely repeat the allegations in the Complaint, which are set forth more fully in the Court’s screening Order. (See Docs. 1, 8.) 1 On June 12, 2020, Plaintiff was sent to Sun City Ear, Nose, and Throat and was seen 2 by ENT Dr. Breash, who also recommended Plaintiff be taken to Dr. Lott. (*Id.*) Dr. Breash 3 noted that

Plaintiff's airway was only open 3mm, when the average adult male has a 13–15 4 mm opening, and he opined this could lead to numerous complications if not repaired. (Id.) 5 Centurion did not take Plaintiff to Dr. Lott or send him back to either Dr. Boyle or Dr. 6 Breash. (Id.) 7 On October 1, 2022, NaphCare took over as ADCRR's contracted medical care 8 provider and received Plaintiff's medical records from Centurion. (Id.) Plaintiff continued 9 to report his symptoms and request to see Dr. Lott, but NaphCare providers continued to 10 deny these requests. (Id. at 6–7.) 11 On November 1, 2023 and August 21, 2024, Plaintiff was taken to two different 12 ENTs at Barrow Neurological and Medical Center, and they also recommended Plaintiff 13 be taken to Dr. Lott for surgery because they did not have the expertise to repair Plaintiff's 14 injuries. (Id. at 7.) 15 On January 8, 2025, Plaintiff was returned to the same ENT he saw on August 1, 16 2024, and the ENT asked why Plaintiff returned instead of seeing Dr. Lott. (Id.) The ENT 17 opined Plaintiff needed highly specialized treatment and recommended he be taken to Dr. 18 Lott at Mayo or Dr. Sugumaran. (Id. at 28.) 19 On June 21, 2025, shortly after another chronic care appointment in which his 20 request to see Dr. Lott was denied, Plaintiff submitted an informal complaint resolution, to 21 which NaphCare Assistant Director of Nursing, Sarah Bratton, wrote in response, "[a]t this 22 time the provider you are requesting may not be a contracted provider with NaphCare and 23 ADCRR. We are continuing to monitor you onsite, and the UM team is aware of any future 24 consults that may need to be placed." (Id. at 8, 30.) Plaintiff submitted a formal grievance 25 and received "the same verbatim response," and he completed the administrative remedy 26 process by filing an appeal. (Id. at 8, 32.) 27 28 1 As of the date of Plaintiff's Motion, "Plaintiff has yet to see Dr. Lott, a world class 2 specialist in throat reconstruction procedures that Plaintiff has been recommended to see 3 by four different other specialists." (Id. at 8.) 4 Plaintiff seeks an injunction requiring NaphCare to: (1) within the next 14 days, 5 schedule an evaluation with Dr. Lott to evaluate Plaintiff's condition and formulate a 6 treatment plan; (2) within the next 21 days, schedule and execute all "diagnosis 7 recommendations" of Dr. Lott, (3) within the next 30 days, schedule and execute all other 8 recommendations of Dr. Lott, including "any corrective procedures, surgeries, alternative 9 care, and all other care ordered," (4) within 24 hours of all appointments, provide Plaintiff 10 with any onsite medical care recommended by Dr. Lott, (5) within 60 days of date ordered, 11 schedule and execute any follow up/post-operative care ordered by Dr. Lott, including "the 12 scheduling of any other procedures, diagnostic testing, evaluations, or other medical care," 13 (6) within 24 hours of receipt of any document or correspondence regarding care ordered 14 by the Court, provide both the Court and Plaintiff such documentation, (7) every 30 15 calendar days until further notice, provide the Court and Plaintiff progress reports regarding 16 the care provided pursuant to the injunction, and (8) any other injunctive relief the Court 17 sees fit. (Id. at 1–3.) 18 IV. Plaintiff's Medical Records 19 NaphCare disputes that Plaintiff has a severe medical condition caused by his 2019 20 assault and argues that he instead has a chronic but stable vocal cord condition caused by 21 prior throat cancer. (Doc. 15 at 1–3.) NaphCare produced Plaintiff's medical records and 22 the declaration of its Regional Medical

Director Dr. Daniel Pacheco, who reviewed these 23 records.³ This evidence shows the following facts. ²⁴ Plaintiff has a chronic problem with his vocal cords from prior glottic (laryngeal) ²⁵ cancer and treatment, including 17 prior surgeries. (Doc. 15-1, Pacheco Decl. ¶¶ 4– 5; ²⁶ ³ Dr. Pacheco does not cite to Plaintiff’s medical records in his declaration, so the Court ²⁷ will not credit his statements based on those records where it is unable to readily locate the supporting evidence. Cf. Fed. R. Civ. P. 56(c)(1)(A) (“[a] party asserting that a fact cannot ²⁸ be or is genuinely disputed must support the assertion by[] citing to particular parts of materials in the record”).

¹ Doc. 15-5 at 3, 6.) Prior to his incarceration, Plaintiff received radiation treatment and ² throat surgeries from Dr. Lott at Mayo Clinic. (Doc. 15-5 at 3.)⁴ His first surgery was in ³ 1995 to remove throat polyps. (Id. at 6.) ⁴ On August 21, 2024, Plaintiff was taken to Barrow ENT and Skull Base Surgery ⁵ Clinic (Barrow) for a follow-up ENT/otolaryngology consult with Dr. Griffin Santarelli on ⁶ hoarseness. (Doc. 15-3 at 5.) Dr. Santarelli noted, ⁷ He returns to clinic today for ⁸ 8[-]month evaluation of his vocal cords. He reports that since last visit his dysphonia has been ⁸ stable without any notable change. His primary complaints at ⁹ this time are difficulty swallowing foods and baseline difficulty breathing. However, he states that he is able to ¹⁰ workout and lay flat at night. He has found ways to make it ¹¹ work on a daily basis from a respiratory standpoint. ¹² (Id.) Under Review of Symptoms, Dr. Santarelli noted “no shortness of breath, cough, ¹³ wheezing.” (Id.) He conducted a sinonasal endoscopy to better evaluate Plaintiff’s ¹⁴ symptoms, and the findings showed bilateral vocal cord immobility. (Id. at 6.) He wrote, ¹⁵ I informed the patient that on endoscopic exam today he ¹⁶ continues to have bilateral vocal cord immobility. He understands [it] is a very difficult situation clinically to ¹⁷ manage. We discussed the role of cordotomy versus a ¹⁸ tracheostomy versus secondary procedures. ¹⁹ We again discussed treatment options including a wait-and-see approach vs. surgical intervention. We discussed that if he ²⁰ would like to pursue a vocal cord procedure, I would refer him ²¹ to Dr. Sugumaran for more specialized intervention. He would like to be referred to discuss the procedure. ²² Will help coordinate a referral to Dr. Sugumaran. ²³ He will continue to follow up with me as needed. ²⁴ ²⁵ (Id.) ²⁶ ⁴ According to his NaphCare medical records, Plaintiff was booked into ADCRR custody ²⁷ on August 13, 2018. (Doc. 15-5 at 2.) Although the timeframe of Plaintiff’s prior surgeries is unclear, Plaintiff does not claim, and the record does not show, that Plaintiff was treated ²⁸ for throat cancer while in custody or that Dr. Lott was ever involved in Plaintiff’s in- custody care. ¹ On October 15, 2024, Plaintiff saw NaphCare provider Patricia Miller to follow up ² on his appointment at Barrows. (Doc. 15-5 at 6.) He reported a history of throat cancer ³ with multiple prior surgeries, chemo, and radiation, and said he does not want a ⁴ tracheostomy but would like to talk to a provider to discuss other alternatives. (Id.) He ⁵ denied headache, dizziness, difficulty swallowing, difficulty sleeping, neck pain, and ⁶ shortness of breath. (Id.) The plan of care was to draw labs for pre-op clearance, follow ⁷ up with ENT surgeons at Barrow to discuss treatment options other than cordotomy or ⁸ tracheostomy, and

request ENT records from Mayo Clinic. (Id. at 7.) 9 On November 18, 2024, Plaintiff again saw Provider Miller “to review surgical 10 consults.” (Id. at 3.) He stated his throat has a 5mm opening due to “scar tissue and 11 abnormalities from varied procedures.” and he cannot run or exercise strenuously due to 12 inadequate respiration/intake. (Id. at 3–4.) He denied “fever, chills, difficulty sleeping, 13 fatigue, recent trauma or injury” as well as “headache, difficulty swallowing” or neck pain. 14 (Id. at 4.) Upon exam, Plaintiff’s neck was supple with no masses, and his voice was 15 hoarse. (Id.) The plan of care was to “[c]onsult/follow up with ENT surgeons at Barrows 16 to discuss optional treatment options, other than surgery.” (Id. at 7.) 17 According to a June 30, 2025 “Quick Note” by NaphCare provider Michael Houtz, 18 Plaintiff was “stable with no esophageal/laryngeal changes” but said he needed to follow 19 up with Dr. Lott and had been trying to do so for 5 years. (Doc. 15-5 at 3.) 20 On January 1, 2025, Plaintiff was taken back to Barrow, where he again saw Dr. 21 Santarelli for follow up on hoarseness. (Doc. 15-2 at 2.) Dr. Santarelli noted, “[h]e returns 22 to clinic today for unexpected follow up. At his last visit we discussed that he should 23 establish with Dr. Sugumaran for further treatment of his bilateral vocal cord paresis and a 24 referral was placed. Has not established with him yet.” (Id.) Dr. Santarelli also wrote, 25 “[h]is breathing difficulties and dysphonia have been stable with no changes.” (Id.) Dr. 26 Santarelli performed another endoscopic exam, which showed “his vocal cords continue to 27 have bilateral paresis with a gap present. No significant change compared to prior exam.” 28 (Id. at 3.) 1 He wrote, 2 We again discussed treatment options including a wait-and-watch approach vs. surgical intervention. We discussed that if 3 he would like to pursue a vocal cord procedure, I would refer 4 him to Dr. Sugumaran for more specialized intervention. He would like to be referred to discuss the procedure. 5 Will again help to coordinate a referral to Dr. Sugumaran. Per 6 patient’s request, will also attempt to refer to Dr. Lott at Mayo. 7 (Id.) 8 On July 6, 2025, Plaintiff had a chronic care visit via telehealth. (Doc. 15-6.) Under 9 the heading, “Respiratory Issues,” he was assessed for asthma, and his level of disease 10 control was marked as “good.” (Id. at 7.) He denied shortness of breath, and his disease 11 status was marked “unchanged.” (Id.) 12 On September 1, 2025, Plaintiff saw a medical provider to request a gluten-free diet 13 and inhaler renewals. (Doc. 15-5 at 2.) Plaintiff reported using an inhaler for asthma and 14 that his current albuterol inhaler works well to control his symptoms. (Id.) He stated he 15 uses his inhaler about once per day but can go several days without needing it. (Id.) Upon 16 exam, Plaintiff had a strained voice, and his respiration was within normal limits with no 17 labored breathing. (Id. at 3.) 18 Plaintiff has maintained the same weight for over a year—he is 5’11 and regularly 19 weighs between 195-200 pounds. (Pacheco Decl. ¶ 8; Doc. 15-4.) 20 Upon review of Plaintiff’s medical records, and based on his training and expertise 21 as a licensed medical doctor and in consultation with Plaintiff’s onsite provider PA Houtz 22 and site medical director Dr. Diana Bejerano, Dr. Pacheco opines that “Plaintiff does not 23 medically need a referral to another specialist for consideration of an additional surgery for 24 his vocal cords, and his issues with his vocal cords (hoarseness) are chronic, secondary to 25 Glottic cancer, and any

such surgery would be an elective surgery only.” (Pacheco Decl. 26 ¶¶ 10, 11.) 27 28 1 V. Discussion 2 Naphcare argues the Court should deny Plaintiff’s Motion for Preliminary 3 Injunction because the medical records show Plaintiff is receiving care for his 4 longstanding, chronic condition, which is stable and does not require additional surgery, 5 and he is not at risk of irreparable harm if he is not sent to Dr. Lott or another specialist to 6 perform elective vocal cord surgery. (Doc. 15 at 6.) NaphCare argues Plaintiff is not likely 7 to prevail on the merits of his Eighth Amendment medical care claims, which require 8 showing both that NaphCare medical providers were deliberately indifferent to his serious 9 medical needs and that Naphcare has a policy or regular practice that amounts to deliberate 10 indifference. (Id. at 6–11.) NaphCare also argues that Plaintiff fails to satisfy the 11 remaining Winter factors, including that he is at risk of irreparable harm absent the 12 requested preliminary injunctive relief. (Id. at 11–16.) 13 In his Reply, Plaintiff does not dispute the medical record evidence showing 14 NaphCare took him to three ENT consults at Barrow for complaints of hoarseness—an 15 initial visit sometime in late 2023 or early 2024, an 8-month follow up on August 21, 2024, 16 and a second follow up on January 1, 2025. (See Doc. 15-2 at 2; Doc. 15-3 at 5.)5 Plaintiff 17 instead relies on the records of his August 2024 and January 2025 visits with Dr. Santarelli 18 to argue he needs to see Dr. Lott, stating that “both reports clearly identify that, not only 19 did Plaintiff report to Dr. Santarelli that he was interested in vocal c[]ord surgery, but that 20 Dr. Santarelli would refer him to Dr. Sugumaran for a consult regarding possibility of 21 several corrective surgical options.” (Doc. 17 at 3.) Plaintiff further argues that Dr. 22 Santarelli went “so far as to suggest that he would contact Dr. Lott for a referral and 23 consultation,” and that, “[t]his directly contradicts Defendants[’] assertions of the absence 24 of [a serious] medical need for surgical intervention or to see any other ENT specialists.” 25 (Id.) 26 These arguments are unpersuasive. Although Dr. Santarelli discussed possible 27 5 Although the dates differ slightly, these facts are consistent with Plaintiff’s allegations in 28 his Motion that he saw two different ENT specialists at Barrow on November 1, 2023 and August 21, 2024 and was taken back to the second ENT on January 8, 2025. (Doc. 9 at 7.) 1 surgical options to treat Plaintiff’s bilateral vocal cord immobility, which he said was a 2 “difficult situation to clinically manage,” the evidence shows he also discussed taking a 3 wait-and-see approach. (Doc. 15-2 at 2; Doc. 15-3 at 6.) Dr. Santarelli agreed to facilitate 4 a referral to Dr. Sugumaran or—per Plaintiff’s request—Dr. Lott, because Plaintiff said he 5 would like to discuss surgical options, such as “cordotomy versus a tracheostomy versus 6 secondary procedures.” (Id.) While this evidence suggests that Dr. Santarelli opined 7 surgery was a viable option, it does not show he thought surgical intervention was 8 medically necessary or that he believed only Dr. Lott had sufficient skill and expertise to 9 make this evaluation. It also does not show, as Plaintiff argues, that a wait-and-see 10 approach is “a less effective method than either a cordotomy or tracheostomy.” (Id. at 5.) 11 The evidence also shows that NaphCare sent Plaintiff back to Dr. Santarelli instead 12 of Dr. Sugumaran based on Plaintiff’s statements in follow up visits with Provider Miller 13 that he did not want a tracheostomy but would like to see a provider

to discuss other 14 alternatives. (Doc. 15-5 at 3, 6.) Even if Miller mistakenly or negligently concluded 15 Plaintiff did not want to pursue surgical options, these facts do not establish deliberate 16 indifference. Instead, “[p]rison officials are deliberately indifferent to a prisoner’s serious 17 medical needs when they deny, delay, or intentionally interfere with medical treatment,” 18 *Hallett v. Morgan*, 296 F.3d 732, 744 (9th Cir. 2002) (internal citations and quotation 19 marks omitted), or when they fail to respond to a prisoner’s pain or possible medical need. 20 *Jett*, 439 F.3d at 1096; see also *Wood v. Housewright*, 900 F.2d 1332, 1334 (9th Cir. 1990) 21 (“In determining deliberate indifference, we scrutinize the particular facts and look for 22 substantial indifference in the individual case, indicating more than mere negligence or 23 isolated occurrences of neglect.”). 24 Plaintiff is also unlikely to prevail in showing that any subsequent failure to 25 schedule him for a surgical consult amounts to deliberate indifference. Plaintiff speculates 26 that his prison assault damaged the surgical repairs he had 20 years earlier and is “the direct 27 cause of Plaintiff’s current throat issue, which [he claims] NaphCare refuses to 28 acknowledge or stipulate into these proceedings.” (Doc. 17 at 3.) But the evidence shows 1 that, since taking over as the ADCRR medical provider, NaphCare sent Plaintiff to two 2 different ENTs to assess his throat complaints, and there is no evidence either specialist 3 determined Plaintiff had an immediate need for vocal cord surgery based either on his prior 4 cancer treatment or his more recent assault. These facts do not support that, by failing to 5 send Plaintiff for a surgical consult, either with Dr. Lott or another specialist, NaphCare 6 knew of and disregarded an excessive risk to Plaintiff’s health and safety. *Farmer v. 7 Brennan*, 511 U.S. 825, 837 (1994). 8 Additionally, even if Plaintiff can make this deliberate indifference showing, to be 9 entitled to preliminary injunctive relief, he must show a likelihood of irreparable harm, and 10 the medical record evidence also does not support this showing. Dr. Santorelli noted 11 Plaintiff’s complaints of difficulty swallowing and baseline difficulty breathing, but he also 12 noted Plaintiff was able to work out and lay flat at night and “has found ways to make it 13 work on a daily basis from a respiratory standpoint.” (Doc. 15-3 at 5.) As discussed, Dr. 14 Santorelli did not opine that Plaintiff was at risk of further harm without surgery but instead 15 presented as viable options a “wait-and-see” or “wait-and-watch” approach. (Id. at 6; Doc. 16 15-2 at 2.) The medical records from Plaintiff’s onsite and telehealth providers also show 17 that Plaintiff consistently denied many of his alleged symptoms, such as shortness of 18 breath, headaches, or sleeplessness, and he did not suffer any weight loss due to difficulty 19 swallowing. On these facts, the Court cannot conclude that Plaintiff faces a likelihood of 20 irreparable harm absent an immediate surgical consult. 21 Finally, even if Plaintiff were able to make the required Winter showings, the relief 22 he requests is not narrowly drawn and the least intrusive means required to correct the 23 harm. 18 U.S.C. § 3626(a)(2); *Gilmore*, 220 F.3d at 999. First, the evidence does not 24 support, as Plaintiff appears to claim, that Dr. Lott is the only specialist qualified to assess 25 his throat complaints. Instead, the evidence shows Dr. Santorelli initially referred Plaintiff 26 to Dr. Sugumaran to assess possible surgical procedures but said he would attempt a 27 referral to Dr. Lott at Plaintiff’s

request. Even though Plaintiff understandably prefers to see the same specialist who conducted his prior surgeries, he does not have a constitutional right to a particular medical provider. *Kinney v. Kalfus*, 25 F.3d 633, 635 (8th Cir. 1994) (noting that “prison inmates do not have the right to choose their own dentists”); see also *Coppinger v. Townsend*, 398 F.2d 392, 394 (10th Cir. 1968) (“The prisoner’s right is to medical care—not to the type or scope of medical care which he personally chooses”).

5 | Plaintiff’s requests for numerous follow up measures within specified timeframes are also not narrowly drawn and are, in any event, based only on potential future needs that are too speculative to merit injunctive relief. See *Conn. v. Mass.*, 282 U.S. 660, 674 (1931) (an injunction is only appropriate “to prevent existing or presently threatened injuries”); *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674-75 (9th Cir. 1988) (speculative injury does not constitute irreparable harm sufficient to warrant granting a preliminary injunction).

12 IT IS ORDERED: (1) The reference to the Magistrate Judge is withdrawn as to Plaintiff’s Motion for Preliminary Injunction (Doc. 9), and the Motion is denied. (2) The Clerk of Court is directed to redesignate the filing at Doc. 17 as Plaintiff’s Reply. 17

Dated this 5th day of December, 2025. 18 19 1 _ James A. Teil Org Senior United States District Judge 22 23 24 25 26 27 28