UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ADAM KENDALL, Plaintiff, v. BRAZIL, et al., Defendants.	No. 2:24-cv-03801-DAD-CSK (PC) ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND DENYING MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION (Doc. Nos. 2, 15)

Plaintiff Adam Kendall is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 302.

On December 30, 2024, plaintiff filed the complaint initiating this action along with a motion for a temporary restraining order and a preliminary injunction. (Doc. Nos. 1, 2.) On January 24, 2025, the assigned magistrate judge requested that the California Department of Justice submit a response to the pending motion. (Doc. No. 7.) On February 4, 2025, Supervising Deputy Attorney General Jon Allin filed an opposition by special appearance. (Doc. No. 11.) On February 25, 2025, plaintiff filed a reply. (Doc. No. 14.)

On February 28, 2025, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's motion for a preliminary injunction and temporary restraining order be denied. (Doc. No. 15.) Specifically, the magistrate judge

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observed that plaintiff's motion seeks injunctive relief, such as relief restoring plaintiff's "level 3 override," prohibiting his return to the Mule Creek State Prison ("MCSP"), and requiring that he be placed at either the California Medical Facility ("CMF") or the California Men's Colony ("CMC"). (*Id*. at 4.) The magistrate judge noted that plaintiff "did not seek this relief in his complaint" and for good reason—inmates do not have a right to a particular custody level or to be housed in a particular prison. (*Id*. at 3–6) (citing *Pac. Radiation Oncology, LLC v. Queen's Med. Ctr.*, 810 F.3d 631, 636 (9th Cir. 2015) ("We hold that there must be a relationship between the injury claimed in the motion for injunctive relief and the conduct asserted in the underlying complaint.")). The pending findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days from the date of service. (*Id*. at 7.) On March 18, 2025, plaintiff filed objections to the pending findings and recommendations. (Doc. No. 18.) On April 14, 2025, plaintiff filed an additional notice stating that he was transferred to the California Substance Abuse Treatment Facility and State Prison and arguing that this transfer does not render moot his pending motion. (Doc. No. 19.)

In plaintiff's objections, plaintiff argues that he "is not seeking an injunction based on new claims not within his complaint" and that accepting the magistrate judge's findings and recommendations "will amount to an abandonment of the courts [sic] duty to construe pro se pleadings liberally." (Doc. No. 18 at 9.) The court has reviewed plaintiff's complaint and finds that it seeks injunctive relief ordering the warden to require every prison guard to wear a body camera, provide the option to have all disciplinary hearings recorded, immediately address alleged systemic retaliation and other misconduct at MCSP, and halt any training of new guards "until the systemic retaliation is rooted out and the toxic unsafe culture of MCSP changed." (Doc. No. 1 at 106.) In his complaint filed in this action, however, plaintiff does not seek injunctive relief regarding restoring his level-3 status and effectuating his transfer to CMF or CMC, although his 108-page complaint does include allegations regarding a purported physical altercation between himself and prison guards at MCSP and the withdrawal of his "level-3 override." (*Id*. at 77, 86–87.) However, the court observes that even if plaintiff were to succeed on the merits of his claims as asserted in his complaint, he has no legal right to be transferred to

CMF, CMC, or any other prison facility. *See* Fed. R. Civ. P. 65(d)(2) (providing that an injunction binds only the parties, their officers, agents, servants, employees, and attorneys, and other persons actively in concert or participation with them); *see also Zepeda v. United States Immigration & Naturalization Serv*., 753 F.2d 719, 727 (9th Cir. 1985) ("A federal court may issue an injunction if it has personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may not attempt to determine the rights of persons not before the court."); *Thompson v. Mike*, No. 17-cv-00319-DKW-RLP, 2018 WL 2144145, at *2 (D. Haw. May 9, 2018) ("Because neither the FDC (a federal facility) nor its administrators are parties to this action, the Court is without authority to issue an injunction that would compel the FDC to accept [the plaintiff]."). Accordingly, the court concludes that plaintiff's objections provide no basis upon which to reject the pending findings and recommendations recommending that his motion for a temporary restraining order and preliminary injunctive relief be denied.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a de novo review of the case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly,

1. The findings and recommendations issued on February 28, 2025 (Doc. No. 15) are hereby ADOPTED;
2. Plaintiff's motion for a preliminary injunction and temporary restraining order (Doc. No. 2) is DENIED; and
3. This matter is referred back to the assigned magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: **June 18, 2025**

Dale A. Drozd

DALE A. DROZD
UNITED STATES DISTRICT JUDGE