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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HUMAN RIGHTS DEFENSE CENTER,)	CASE NO. CV 17-4883-R
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S
)	MOTION FOR PRELIMINARY
v.)	INJUNCTION
)	
COUNTY OF LOS ANGELES; et al.,)	
)	
Defendants.)	
)	

Before the Court is Plaintiff’s Motion for Preliminary Injunction (Dkt. No. 35), which was filed on July 17, 2017. Having been thoroughly briefed by both parties, this Court took the matter under submission on August 29, 2017.

Plaintiff publishes and distributes *Prison Legal News* (“*PLN*”), a monthly journal of corrections news and editorial content about legal issues affecting prisoners. *PLN* is distributed in approximately 2,200 correctional facilities throughout the country, including Men’s Central Jail (“*MCJ*”) in Los Angeles. Plaintiff also sends other written communications to inmates, including subscription renewal letters, informational brochure packets, and copies of court opinions. Defendants operate *MCJ*, which receives about 2,300 pieces of mail each day.

Plaintiff seeks a preliminary injunction based on alleged violations of its First and Fourteenth Amendment rights. Specifically, Plaintiff alleges that Defendants unconstitutionally rejected 149 pieces of mail sent by Plaintiff over a two-year period. Plaintiff also alleges that

1 Defendants denied Plaintiff due process by failing to give notice of the rejection and a chance to
2 appeal.

3 A preliminary injunction is “an extraordinary remedy that may only be awarded upon a
4 clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*,
5 555 U.S. 7, 22 (2008). A party is entitled to injunctive relief upon a showing that: (1) it is
6 likely to succeed on the merits, (2) it is likely to suffer irreparable harm in the absence of
7 preliminary relief, (3) the balance of equities tips in the moving party’s favor, and (4) an
8 injunction is in the public interest. *Id.* at 20. This Court finds that Plaintiff has not made the
9 requisite showing to justify the “extraordinary remedy” that is a preliminary injunction.

10 First, the Court must determine the likelihood that Plaintiff will succeed on the merits. A
11 prison policy violates the First Amendment where the plaintiff shows that the policy is not
12 “reasonably related to legitimate penological interests.” *Turner v. Safley*, 482 U.S. 78, 89 (1987).
13 In making this determination, the court looks to: (1) whether the regulation is rationally related to
14 a legitimate and neutral government objective, (2) whether inmates have alternative avenues of
15 exercising their rights, (3) the impact that accommodating the right will have on guards and other
16 prisoners, and on the allocation of prison resources, and (4) whether the existence of easy and
17 obvious alternatives indicates that the regulation is an exaggerated response. *Id.* at 89-90.

18 Here, Plaintiff’s claim fails at its inception because Plaintiff does not show that Defendants
19 enacted any regulation causing rejection of *PLN* and associated written content. On the contrary,
20 *PLN* is an expressly approved publication at MCJ. Although MCJ has a policy limiting
21 periodicals to current issues, the policy results in few rejections. Moreover, Plaintiff does not
22 show that the policy has caused the rejection of any of its communications. Plaintiff also does not
23 demonstrate, but rather assumes, that some of its communications were rejected because of a ban
24 on *PLN*. Plaintiff does not provide any evidence of this ban. Even to the extent Defendants might
25 have improperly rejected some communications, Plaintiff does not show that the rejections were
26 based on unconstitutional policies. *See Overton v. Bazzetta*, 539 U.S. 126, 132 (2003) (according
27 “substantial deference to the professional judgment of prison administrators, who bear a
28 significant responsibility for defining the legitimate goals of a corrections system and for

1 determining the most appropriate means to accomplish them”). Therefore, Plaintiff does not show
2 that it will likely prevail on its First Amendment claim.

3 In order to prevail on a due process claim, the plaintiff must show that the prison officials
4 did not give senders of censored mail notice or an opportunity to appeal. *Procurier v. Martinez*,
5 416 U.S. 396, 418-19 (1974), *overruled in part on other grounds by Thornburgh v. Abbott*, 490
6 U.S. 401, 413-14 (1989). “[T]he decision to censor or withhold delivery of a particular letter must
7 be accompanied by minimum procedural safeguards,” which requires only that “the author of that
8 letter be given a reasonable opportunity to protest that decision....” *Id.* at 417-18. Here, Plaintiff
9 has not demonstrated that it was deprived of notice or an opportunity to protest. First, Defendants
10 sent back each piece of rejected mail with a short, written explanation. Second, Plaintiff does not
11 allege that Defendants did not offer a chance to protest. Instead, Plaintiff merely points to other
12 prisons with explicit appeals policies. Plaintiff does not claim that it contacted Defendants to
13 challenge the rejection of its mail or that Defendants were unresponsive. Therefore, Plaintiff does
14 not show that it will likely prevail on its due process claim.

15 Next, the Court must assess the possibility of irreparable injury to Plaintiff in the absence
16 of injunctive relief. Irreparable injury must be more than merely speculative in order to warrant a
17 preliminary injunction. *See Herb Reed Enters., LLC v. Florida Entm’t Mgmt., Inc.*, 736 F.3d
18 1239, 1249 (9th Cir. 2013). Here, even to the extent Plaintiff suffers irreparable injury when it
19 cannot reach inmates, Plaintiff does not explain how an injunction would provide relief. Plaintiff
20 does not show that any particular policy is responsible for the rejections and does not propose an
21 alternative. At best, any issuable injunction would order Defendants to follow current policy.
22 Therefore, it is unclear how a preliminary injunction would solve any irreparable injury to
23 Plaintiff.

24 Finally, Plaintiff has not shown that the balance of equities tips in its favor or that a
25 preliminary injunction is in the public interest. An injunction that forces Defendants to
26 immediately overhaul their entire mail system in a jail that receives 2,300 pieces of mail per day
27 will cause serious harm, especially where Plaintiff has not shown that an overhaul is warranted.
28 On the other hand, denial of an injunction means Plaintiff may temporarily reach a narrower

1 customer base. The balance favors Defendants. Furthermore, while the public is interested in
2 ensuring that prisoners can access reading materials, MCJ prisoners will continue to access these
3 materials absent an injunction from this Court. The public has an even stronger interest in prison
4 mail policies that prevent inmates from receiving dangerous items. An injunction that forces
5 Defendants to suddenly overhaul their entire system compromises that public interest. Therefore,
6 Plaintiff has not met its difficult burden of showing that a preliminary injunction is proper.

7 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Preliminary Injunction is
8 DENIED. (Dkt. No. 35).

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10 Dated: September 25, 2017.



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13 MANUEL L. REAL
14 UNITED STATES DISTRICT JUDGE
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