

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 3 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RALPH HOWARD BLAKELY,

Plaintiff-Appellant,

v.

GREGORY JONES, in his individual
capacity; et al.,

Defendants-Appellees.

No. 18-35647

D.C. No. 3:18-cv-05021-RBL-TLF

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted November 27, 2018**

Before: CANBY, TASHIMA, and FRIEDLAND, Circuit Judges.

Washington state prisoner Ralph Howard Blakely appeals pro se from the district court's order denying his motion for a preliminary injunction in his 42 U.S.C. § 1983 action alleging constitutional claims. We have jurisdiction under 28 U.S.C. § 1292(a)(1). We review for an abuse of discretion. *Jackson v. City &*

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

County of San Francisco, 746 F.3d 953, 958 (9th Cir. 2014). We affirm in part and dismiss in part.

The district court did not abuse its discretion by denying Blakely's motions seeking the return of his legal documents because Blakely failed to establish that such relief is warranted. *See id.* (plaintiff seeking preliminary injunction must establish that he is likely to succeed on the merits, likely to suffer irreparable harm in the absence of preliminary relief, the balance of equities tips in his favor, and an injunction is in the public interest).

We lack jurisdiction over the district court's discovery ruling and order denying Blakely's motions for appointment of counsel. *See Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 886 F.3d 803, 825 (9th Cir. 2018) ("Orders relating to discovery . . . are orders that regulate the conduct of litigation and are not appealable under § 1292(a)(1)."); *Kuster v. Block*, 773 F.2d 1048, 1049 (9th Cir. 1985) (order denying appointment of counsel is not a final appealable order).

In sum, we affirm the district court as to the denial of a preliminary injunction and dismiss this appeal as to all other issues raised in the opening brief.

AFFIRMED in part, DISMISSED in part.