

1 merit a preliminary injunction, a plaintiff must show that: (1) he is likely to succeed
2 on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary
3 relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public
4 interest. *Id.* at 20.

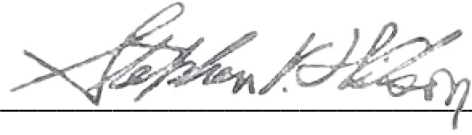
5 In addition, a federal court must have jurisdiction over the parties the plaintiff
6 seeks to enjoin. *Zepeda v. United States I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1985)
7 (explaining that a federal court may issue an injunction only “if it has personal
8 jurisdiction over the parties and subject matter jurisdiction over the claim”). The court
9 “may not attempt to determine the rights of persons not before [it].” *Id.* Accordingly,
10 “[u]nder Federal Rule of Civil Procedure 65(d), an injunction binds only ‘the parties to
11 the action, their officers, agents, servants, employees, and attorneys, and . . . those
12 persons in active concert or participation with them who receive actual notice of the
13 order’” *Id.* (internal citation omitted); *see also* Fed. R. Civ. P. 65(a)(1) (“The
14 court may issue a preliminary injunction *only* on notice to the adverse party.”)
15 (emphasis added).

16 Here, in order to grant Plaintiff his desired relief, the Court must be able to
17 exercise jurisdiction over the non-moving parties. The Court cannot do that. The
18 operative claim in the First Amended Complaint concerns an alleged incident that
19 occurred at the United States Penitentiary Victorville and the one remaining defendant,
20 R. Villegas (“Defendant”), is a correctional officer there. (*See generally* FAC), but in
21 his Motion, Plaintiff alleges that the staff at U.S.P. Terre Haute in Indiana, where
22 Plaintiff is currently incarcerated, confiscated his legal materials concerning the
23 underlying complaint. (*See generally* Mot.) As such, he seeks an order directing
24 U.S.P. Terre Haute staff to return his legal materials. (*See id.* at 2.) However, U.S.P.
25 Terre Haute staff are not parties to this action, nor are they Defendant’s officers,
26 agents, servants, employees, and attorneys. *See Zepeda*, 753 F.2d at 727. Further,
27 Plaintiff has not alleged that U.S.P. Terre Haute staff are in active concert or
28 participation with Defendant, who is sued in his individual capacity in any event. (*See*

1 *generally* Mot.) The Court thus lacks the authority to direct U.S.P. Terre Haute staff to
2 provide the relief Plaintiff seeks. *See Zepeda*, 753 F.2d at 727.

3 Accordingly, **IT IS ORDERED THAT** Plaintiff's Motion is **DENIED**.

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5 DATED: February 21, 2018



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7 HON. STEPHEN V. WILSON
8 UNITED STATES DISTRICT JUDGE
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