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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ERIC CHARLES RODNEY K'NAPP,	1:06-cv-01701-LJO-GSA-PC	
Plaintiff,		FINDINGS AND RECOMMENDATIONS,
v.		RECOMMENDING THAT PLAINTIFF'S
D. G. ADAMS, et al.,		MOTION FOR PRELIMINARY
		INJUNCTION BE DENIED
		(Doc. 66.)
Defendants.		OBJECTIONS, IF ANY, DUE WITHIN
		THIRTY DAYS

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**I. BACKGROUND**

Plaintiff, Eric Charles Rodney K'napp ("Plaintiff"), is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Original Complaint commencing this action on November 22, 2006. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed by Plaintiff on November 13, 2008, against defendants Warden Derral G. Adams, Sergeant ("Sgt.") C. Pugliese, Lieutenant ("Lt.") E. Smith, K. Motty, R. Guerrero, E. Meaders, Sgt. B. Johnson, Captain D. Cuevas, Lt. J. T. Tucker, Associate Warden S. Sherman, D. Selvy (Classification Services Representative), and Does 1-5 (Mailroom Workers) for retaliating against Plaintiff, and against defendants K. Motty, Sgt. C. Pugliese, Lt. Smith, R. Guerrero, Appeals Coordinator Cooper, Appeals Coordinator V. R. Garcia, Appeals Coordinator R. Hall, and Does 1-5 (Mailroom Workers) for interfering with his right to send mail

1 in violation of the First Amendment.<sup>1</sup> (Doc. 16.) Plaintiff is presently incarcerated at the California  
2 Substance Abuse Treatment Facility and State Prison ("SATF") in Corcoran, California.

3 On February 25, 2011, Plaintiff filed a motion for preliminary injunctive relief via a court  
4 order directing prison officials at SATF to accommodate his medically verified physical and mental  
5 disabilities, to allow him access to the courts, and to cease ongoing violations of the constitution and  
6 federal and state laws. (Doc. 66.) Specifically, Plaintiff requests to remain single-celled because  
7 of a mental condition; to be allowed access to a word-processing typewriter because of a physical  
8 impairment making it difficult for him to write documents by hand; to return his legal materials and  
9 allow him to keep them in his cell; to allow him access to his entire Health Record and Central File;  
10 to consider allowing new inmates at least four hours per week at the law library; to provide him with  
11 copies of documents exceeding fifty pages; to allow him unlimited telephone privileges; to allow  
12 him to receive Priority First Class mail; to repair or replace lamps which make loud noises; and to  
13 provide him with a clean pillow and two laundry bags. Id. Plaintiff's motion for preliminary  
14 injunction is now before the Court.

## 15 **II. PRELIMINARY INJUNCTION**

16 "A preliminary injunction is an extraordinary remedy never awarded as of right." Winter v.  
17 Natural Resources Defense Council, Inc., 129 S.Ct. 365, 376 (2008) (citation omitted). "A plaintiff  
18 seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is  
19 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips  
20 in his favor, and that an injunction is in the public interest." Id. at 374 (citations omitted). An  
21 injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Id. at 376  
22 (citation omitted) (emphasis added).

23 Federal courts are courts of limited jurisdiction and in considering a request for preliminary  
24 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before  
25 it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660,  
26 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.,

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28 <sup>1</sup>All other claims and defendants were dismissed from this action by the Court on August 17, 2009, based on  
Plaintiff's failure to state a claim. (Doc. 29.)

1 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the Court does not have an actual case or  
2 controversy before it, it has no power to hear the matter in question. Id. Requests for prospective  
3 relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which  
4 requires that the Court find the “relief [sought] is narrowly drawn, extends no further than necessary  
5 to correct the violation of the Federal right, and is the least intrusive means necessary to correct the  
6 violation of the Federal right.”

7 Plaintiff has requested a court order directing prison officials at SATF to act. However, the  
8 order requested by Plaintiff would not remedy any of the claims upon which this action proceeds.  
9 This action is proceeding against defendants for retaliation and for interfering with Plaintiff's  
10 outgoing mail, based on events occurring before he filed this action in November 2006. Plaintiff  
11 now requests a court order protecting him from present and future actions. Because such an order  
12 would not remedy any of the claims upon which this action proceeds, the Court lacks jurisdiction  
13 to issue the order sought by Plaintiff, and Plaintiff's motion must be denied.

### 14 **III. CONCLUSION AND RECOMMENDATIONS**

15 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion for  
16 preliminary injunction, filed February 25, 2011, be DENIED.

17 These findings and recommendations are submitted to the United States District Judge  
18 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days  
19 after being served with these findings and recommendations, the parties may file written objections  
20 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings  
21 and Recommendations." The parties are advised that failure to file objections within the specified  
22 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th  
23 Cir. 1991).

24  
25 IT IS SO ORDERED.

26 **Dated: May 23, 2011**

**/s/ Gary S. Austin**  
27 UNITED STATES MAGISTRATE JUDGE