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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 HOWARD YOUNG, 1:07-cv-01121-GSA-PC

11 || Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

13 CALIFORNIA DEPARTMENT OF
14 CORRECTIONS AND REHABILITATION,
et al..

(Doc. 15.)

15 || Defendants.

I. RELEVANT PROCEDURAL HISTORY

18 Plaintiff Howard Young (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis
19 in a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on August 2, 2007.
20 (Doc. 1.) On August 15, 2007, plaintiff consented to Magistrate Judge Jurisdiction pursuant to
21 28 U.S.C. § 636(c)(1). (Doc. 6.) On August 31, 2007, plaintiff filed an amended complaint. (Doc. 9.)
22 On September 29, 2008, plaintiff filed a motion for summary judgment. (Doc. 15.) On January 21,
23 2009, this action was assigned to Magistrate Judge Gary S. Austin to conduct all further proceedings
24 in this case. (Doc. 16.)

II. JURISDICTION

26 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must have
27 before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660,
28 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc., 454

1 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th
2 Cir. 2006). If the court does not have an actual case or controversy before it, it has no power to hear the
3 matter in question. Id.

4 At this point in time, there is no case or controversy before the court, and the court has no
5 jurisdiction to grant summary judgment. The court has not screened the amended complaint, and
6 defendants have not been served. Until and unless the court finds that plaintiff has stated cognizable
7 claims for relief under section 1983 and the defendants against whom the claims are stated have been
8 served and made an appearance in this action, the court will not have jurisdiction to issue any orders
9 awarding the relief plaintiff seeks. Therefore, plaintiff's motion for summary judgment is premature and
10 must be denied without prejudice.

11 Accordingly, it is HEREBY ORDERED that plaintiff's motion for summary judgment, filed on
12 September 29, 2008, is DENIED without prejudice. The amended complaint shall be screened in due
13 course.

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15 IT IS SO ORDERED.

16 Dated: January 22, 2009

17 /s/ Gary S. Austin
18 UNITED STATES MAGISTRATE JUDGE
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