

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

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

Plaintiff,

V.

ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTIVE RELIEF

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,
et al.,

(Doc. 21.)

Defendants.

I. BACKGROUND

Plaintiff Howard Young (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on August 2, 2007. (Doc. 1.) On August 15, 2007, plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1). (Doc. 6.) On January 21, 2009, this case was reassigned to the undersigned to conduct any and all proceedings in the case. (Doc. 16.) On August 31, 2008, plaintiff filed an amended complaint. (Doc. 9.) The court screened the amended complaint pursuant to 28 U.S.C. § 1915A and issued an order on March 5, 2009, giving plaintiff the choice of either filing a second amended complaint or notifying the court that he wishes to proceed on the claims found cognizable by the court. (Doc. 19.) On April 1, 2009, plaintiff filed a motion for preliminary injunctive relief, which is now before the court. (Doc. 21.)

1 **II. PRELIMINARY INJUNCTIVE RELIEF**

2 The purpose of a preliminary injunction is to preserve the status quo if the balance of equities
3 so heavily favors the moving party that justice requires the court to intervene to secure the positions
4 until the merits of the action are ultimately determined. University of Texas v. Camenisch, 451 U.S.
5 390, 395 (1981). A preliminary injunction is available to a plaintiff who “demonstrates either (1)
6 a combination of probable success and the possibility of irreparable harm, or (2) that serious
7 questions are raised and the balance of hardship tips in its favor.” Arcamuzi v. Continental Air
8 Lines, Inc., 819 F. 2d 935, 937 (9th Cir. 1987). Under either approach the plaintiff “must
9 demonstrate a significant threat of irreparable injury.” Id. Also, an injunction should not issue if the
10 plaintiff “shows no chance of success on the merits.” Id. At a bare minimum, the plaintiff “must
11 demonstrate a fair chance of success of the merits, or questions serious enough to require litigation.”
12 Id.

13 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the Court must
14 have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103
15 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and
16 State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of Los Angeles, 444 F.3d
17 1118, 1126 (9th Cir. 2006). If the Court does not have an actual case or controversy before it, it has
18 no power to hear the matter in question. Id. “A federal court may issue an injunction *if* it has
19 personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may *not*
20 attempt to determine the rights of persons not before the court.” Zepeda v. United States
21 Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985) (emphasis added).

22 **III. DISCUSSION**

23 Plaintiff seeks an order preventing his involuntary transfer from Corcoran State Prison while
24 this action is pending before the court. Plaintiff alleges that he was informed on March 18, 2009 that
25 he is subject to an involuntary transfer to Centinela and/or Calipatria State Prison. Without offering
26 evidence, plaintiff contends that such transfer should be deemed an adverse action in retaliation for
27 him filing this § 1983 action, for filing 602 appeals, and/or for filing a habeas corpus action which
28 is pending in superior court.

1 Plaintiff proceeds in this action against defendants for the removal of plaintiff from his cell
2 and confiscation of his personal property, without justification and in retaliation for plaintiff filing
3 a 602 prisoner grievance. (Doc. 1.) As relief, plaintiff seeks money damages and an order to
4 prohibit the confiscation of a prisoner's personal property unless that property is being misused by
5 the prisoner.

6 The court does not have jurisdiction in this action to issue the order sought by plaintiff in his
7 motion for preliminary injunctive relief. Because an order prohibiting plaintiff's transfer to another
8 prison would not remedy any of the claims upon which this action proceeds, the court lacks
9 jurisdiction to issue the order sought by plaintiff, and therefore the motion for injunctive relief must
10 be denied.

11 **IV. CONCLUSION**

12 Based on the foregoing, IT IS HEREBY ORDERED that plaintiff's motion for preliminary
13 injunctive relief, filed April 1, 2009, is DENIED.

14
15 IT IS SO ORDERED.

16 Dated: April 2, 2009

17 /s/ Gary S. Austin

18 UNITED STATES MAGISTRATE JUDGE