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

HOWARD YOUNG,

1:07-cv-01121-GSA-PC

Plaintiff,

ORDER DENYING MOTION FOR  
RETURN OF PROPERTY

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION,  
et al.,

(Doc 43.)

Defendants.

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**I. PROCEDURAL HISTORY**

Plaintiff, Howard Young ("plaintiff"), is a prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on August 2, 2007. (Doc. 1.) On August 15, 2007, plaintiff consented to Magistrate Judge jurisdiction, and no other parties have appeared in this action. (Doc. 6.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the Magistrate Judge shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

On August 31, 2009, plaintiff filed the first amended complaint. (Doc. 9.) On March 5, 2009, the court dismissed the first amended complaint, with leave to amend. (Doc. 19.) On August 31, 2009, plaintiff filed the second amended complaint. (Doc. 42.) On June 21, 2010, the court

1 screened the second amended complaint and found only one cognizable claim, for retaliation against  
2 defendant Officer Barron. (Doc. 55.) Plaintiff has been granted leave to file a third amended  
3 complaint or to proceed on the claim found cognizable by the court. Id.

4 On October 1, 2009, plaintiff filed a motion for appointment of counsel and/or for a court  
5 order directing prison officials to return all of his personal property. (Doc. 43.) On December 10,  
6 2009, plaintiff's motion for appointment of counsel was denied. (Doc. 47.) Plaintiff's motion for  
7 return of his personal property is now before the court.

## 8 **II. INJUNCTIVE RELIEF**

9 The purpose of a preliminary injunction is to preserve the status quo if the balance of equities  
10 so heavily favors the moving party that justice requires the court to intervene to secure the positions  
11 until the merits of the action are ultimately determined. University of Texas v. Camenisch, 451 U.S.  
12 390, 395 (1981). “A plaintiff seeking a preliminary injunction must establish that he is likely to  
13 succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,  
14 that the balance of equities tips in his favor, and that an injunction is in the public interest.” Winter  
15 v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 374 (2008) (citations omitted).

16 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must  
17 have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103  
18 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc., 454  
19 U.S. 464, 471 (1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the  
20 court does not have an actual case or controversy before it, it has no power to hear the matter in  
21 question. Id.

22 Plaintiff requests a court order directing prison officials to return his personal and legal  
23 property. At this juncture, no other party has appeared in this action and the court does not have  
24 jurisdiction over any of the defendants. Zepeda v. U.S. I.N.S., 753 F.2d 719, 727 (9th Cir. 1984).  
25 Moreover, the order requested by plaintiff would not remedy the only claim presently found  
26 cognizable by the court, the retaliation claim against Officer Barron in the second amended  
27 complaint. Therefore, the court lacks jurisdiction to issue the order sought by plaintiff, and  
28 plaintiff's motion for return of his property must be denied.

1 **III. CONCLUSION**

2 Based on the foregoing, IT IS HEREBY ORDERED that plaintiff's motion for return of his  
3 property, filed October 1, 2009, is DENIED.

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5 IT IS SO ORDERED.

6 **Dated: June 22, 2010**

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

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