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

DONTE ROLANDO HARRIS,

Plaintiff,

vs.

1: 09 CV 00781 YNP GSA (PC)

ORDER RE MOTIONS (DOCS 4, 10, 11, 12)

H. A. RIOS, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1). Pending before the court are Plaintiff’s motions for correction and amendment, for permissive joinder of parties and for a preliminary injunction.

In his motions for correction and/or amendment, Plaintiff indicates that his action is brought pursuant to the Administrative Procedures Act, 5 U.S.C. § 702, et seq. Plaintiff objects the any attempts to construe the action as a civil rights action. On February 3, 2010, an order was entered, granting Plaintiff leave to file an amended complaint. In his amended complaint, Plaintiff must clearly set forth the legal authority for this court’s jurisdiction. Accordingly, the motions for correction and/or amendment are moot. In his motion for joinder, Plaintiff seeks to add a party as a defendant. In his amended complaint, Plaintiff may add another defendant.

1 Plaintiff is free to name additional defendants in his amended complaint. The motion granting
2 leave to file an amended complaint therefore renders Plaintiff's motion moot.

3 In his motion for a preliminary injunction, Plaintiff seeks an order enjoining Jesus Valero
4 from confiscating certain items of Plaintiff's personal property, including his mail. Jesus Valero
5 is not a defendant in this action, and has not been served with the complaint nor entered an
6 appearance. The court must have personal jurisdiction over the parties to be enjoined; it may not
7 enjoin defendants not yet served or before the court. Zepeda v. United States I.N.S., 753 F.2d
8 719, 727 (9th Cir. 1983).

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff's motions for amendment and for joinder are denied as moot.
11 2. Plaintiff's motion for preliminary injunctive relief is denied.
12

13 IT IS SO ORDERED.

14 **Dated: February 11, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE