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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RICHARD ERNEST ANAYA,

Plaintiff,

v.

HERRINGTON, et al.,

Defendants.

Case No. 1:09-cv-01653-DLB (PC)

ORDER DENYING MOTION FOR  
TEMPORARY RESTRAINING ORDER

(Doc. 5)

Plaintiff Richard Ernest Anaya (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 25, 2009, Plaintiff filed a motion for a temporary restraining order. (Doc. 5.)

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council, Inc., 129 S. Ct. 365, 374 (2008) (citations omitted).

Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S. Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc., 454 U.S. 464, 471, 102 S. Ct. 752, 757-58 (1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the court does not have an actual case or controversy before it, it has no power to hear the matter in question. Id. Thus, “[a] federal court may issue an injunction [only] if it has personal jurisdiction over the parties and subject matter

1 jurisdiction over the claim; it may not attempt to determine the rights of persons not before the  
2 court.” Zepeda v. United States Immigration Serv., 753 F.2d 719, 727 (9th Cir. 1985).

3 By separate order, the Court dismissed Plaintiff’s complaint and ordered Plaintiff to file  
4 an amended complaint within thirty days. At this juncture, the Court does not yet have before it  
5 an actual case or controversy and has no jurisdiction to issue any preliminary injunctions.

6 Accordingly, the Court HEREBY ORDERS that Plaintiff’s motion for temporary  
7 restraining order, filed September 25, 2009, is DENIED.

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IT IS SO ORDERED.

**Dated: October 27, 2009**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE