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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BRIAN HERRON,

Plaintiff,

v.

DELROSARIO, et al.,

Defendants.

CASE NO. 1:09-cv-02165-AWI-DLB PC

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING MOTION FOR  
PRELIMINARY INJUNCTION BE DENIED

(Doc. 10)

OBJECTIONS, IF ANY, DUE WITHIN  
THIRTY DAYS

**Findings and Recommendations**

Plaintiff Brian Herron (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s motion for preliminary injunction, filed January 29, 2010. (Doc. 10.)

“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). The purpose of preliminary injunctive relief is to preserve the status quo or to prevent irreparable injury pending the resolution of the underlying claim. *Sierra On-line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

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,

1 102, 103 S. Ct. 1660, 1665 (1983); *Valley Forge Christian Coll. v. Ams. United for Separation of*  
2 *Church and State, Inc.*, 454 U.S. 464, 471, 102 S. Ct. 752, 757-58 (1982). If the court does not  
3 have an actual case or controversy before it, it has no power to hear the matter in question.  
4 *Lyons*, 461 U.S. at 102. Thus, “[a] federal court may issue an injunction [only] if it has personal  
5 jurisdiction over the parties and subject matter jurisdiction over the claim; it may not attempt to  
6 determine the rights of persons not before the court.” *Zepeda v. United States Immigration*  
7 *Service*, 753 F.2d 719, 727 (9th Cir. 1985).

8 Plaintiff is currently incarcerated at Pleasant Valley State Prison (“PVSP”) in Coalinga,  
9 California. Plaintiff complains of denial of medical care at PVSP. However, Plaintiff’s first  
10 amended complaint concerns constitutional violations at Wasco State Prison in Wasco,  
11 California, and at California Substance Abuse Treatment Facility in Corcoran, California. Prison  
12 officials at PVSP are not defendants in this action, and thus the Court lacks jurisdiction to  
13 determine their rights. *See Zepeda*, 753 F.2d at 727. Accordingly, it is HEREBY  
14 RECOMMENDED that Plaintiff’s motion for preliminary injunction, filed January 29, 2010,  
15 should be DENIED.

16 These Findings and Recommendations will be submitted to the United States District  
17 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
18 **thirty (30) days** after being served with these Findings and Recommendations, plaintiff may file  
19 written objections with the court. The document should be captioned “Objections to Magistrate  
20 Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections  
21 within the specified time may waive the right to appeal the District Court’s order. *Martinez v.*  
22 *Ylst*, 951 F.2d 1153 (9th Cir. 1991).

23 IT IS SO ORDERED.

24 **Dated: April 20, 2010**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE