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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAWRENCE MARSH,

1:10-cv-02353-LJO-GSA-PC

Plaintiff,

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF’S
MOTION TO COMPEL RETURN OF WORD
PROCESSOR BE DENIED
(Doc. 16.)

v.

JERRY BROWN, et al.,

Defendants.

OBJECTIONS, IF ANY, DUE WITHIN
THIRTY DAYS

I. BACKGROUND

Lawrence Marsh (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on December 8, 2010. (Doc. 1.) The Court screened the Complaint under 28 U.S.C. § 1915A and issued an order on August 29, 2011, dismissing the Complaint with leave to amend. (Doc. 12.)

On October 25, 2011, Plaintiff filed a motion for a court order compelling prison officials to return his word processor to him. (Doc. 16.) The Court treats Plaintiff’s motion as a motion for preliminary injunctive relief.

II. PRELIMINARY INJUNCTION

“A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 376 (2008) (citation omitted). “A plaintiff

1 seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is
2 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips
3 in his favor, and that an injunction is in the public interest.” Id. at 374 (citations omitted). An
4 injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Id. at 376
5 (citation omitted) (emphasis added).

6 Federal courts are courts of limited jurisdiction and in considering a request for preliminary
7 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before
8 it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660,
9 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.,
10 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the Court does not have an actual case or
11 controversy before it, it has no power to hear the matter in question. Id. Requests for prospective
12 relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which
13 requires that the Court find the “relief [sought] is narrowly drawn, extends no further than necessary
14 to correct the violation of the Federal right, and is the least intrusive means necessary to correct the
15 violation of the Federal right.”

16 Plaintiff has requested a court order compelling the return of his word processor. The order
17 requested by Plaintiff would not remedy any of the claims upon which this action proceeds. This
18 action is proceeding against defendants based on events occurring at the California Correctional
19 Institution in 2010 when Plaintiff was incarcerated there. Plaintiff is now incarcerated at Corcoran
20 State Prison and requests a court order compelling prison officials there to act. Because such an
21 order would not remedy any of the claims upon which this action proceeds, the Court lacks
22 jurisdiction to issue the order sought by Plaintiff, and Plaintiff’s motion must be denied.

23 Moreover, “[A] federal court may [only] issue an injunction if it has personal jurisdiction
24 over the parties and subject matter jurisdiction over the claim; *it may not attempt to determine the*
25 *rights of persons not before the court.*” Zepeda v. United States Immigration Service, 753 F.2d 719,
26 727 (9th Cir. 1985) (emphasis added). Because prison officials at Corcoran State Prison are not
27 defendants in Plaintiff’s lawsuit, the Court does not have jurisdiction to issue an order in this action
28 compelling them to act pursuant to Plaintiff’s motion.

1 **III. CONCLUSION AND RECOMMENDATIONS**

2 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion to
3 compel the return of his word processor, filed on October 25, 2011, be DENIED.

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days
6 after being served with these findings and recommendations, Plaintiff may file written objections
7 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
8 and Recommendations." Plaintiff is advised that failure to file objections within the specified time
9 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.
10 1991).

11
12 IT IS SO ORDERED.

13 **Dated: October 26, 2011**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE