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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 DANIEL MASTERSON,

12 Plaintiff,

13 vs.

14 SUZANNE KILLEN, et al.,

15 Defendants.
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1:11-cv-01179-LJO-GSA-PC

ORDER DENYING PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTIVE
RELIEF, FOR LACK OF JURISDICTION
(Doc. 45.)

18 **I. BACKGROUND**

19 Daniel Masterson ("Plaintiff") is a state prisoner proceeding pro se and in forma
20 pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the
21 Complaint commencing this action on July 18, 2011. (Doc. 1.) This case proceeds with
22 Plaintiff's Third Amended Complaint filed on November 22, 2013 against defendants Suzanne
23 Killen, Velva Rowell, Brad Hall, Michael Fisher, Lieutenant F. A. Rodriguez, Kelly Santoro,
24 and Captain Randy Tolson for retaliation, and against defendants Suzanne Killen, Velva
25 Rowell, Brad Hall, Lieutenant F. A. Rodriguez, Kelly Santoro, and Captain Randy Tolson for
26 conspiracy to retaliate against Plaintiff. (Doc. 28.)

27 On February 23, 2015, Plaintiff filed a request for the court to issue an order, which the
28 court construes as a motion for preliminary injunctive relief. (Doc. 45.)

1 **II. PRELIMINARY INJUNCTIVE RELIEF**

2 “A preliminary injunction is an extraordinary remedy never awarded as of right.”
3 Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 376 (2008) (citation
4 omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely to
5 succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary
6 relief, that the balance of equities tips in his favor, and that an injunction is in the public
7 interest.” Id. at 374 (citations omitted). An injunction may only be awarded upon a *clear*
8 *showing* that the plaintiff is entitled to relief. Id. at 376 (citation omitted) (emphasis added).

9 Federal courts are courts of limited jurisdiction and in considering a request for
10 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary
11 matter, it have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S.
12 95, 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for
13 Separation of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the
14 Court does not have an actual case or controversy before it, it has no power to hear the matter
15 in question. Id. Requests for prospective relief are further limited by 18 U.S.C. §
16 3626(a)(1)(A) of the Prison Litigation Reform Act, which requires that the Court find the
17 “relief [sought] is narrowly drawn, extends no further than necessary to correct the violation of
18 the Federal right, and is the least intrusive means necessary to correct the violation of the
19 Federal right.”

20 **Discussion**

21 Plaintiff is presently incarcerated at the Richard J. Donovan Correctional Facility (RJD)
22 in San Diego, California. Plaintiff seeks a court order requiring prison staff at RJD to stop
23 retaliating against him. However, the events at issue in Plaintiff’s complaint for this action
24 allegedly occurred the California Substance Abuse Treatment Facility and State Prison in
25 Corcoran, California, when Plaintiff was incarcerated there.

26 “A federal court may issue an injunction [only] if it has personal jurisdiction over the
27 parties and subject matter jurisdiction over the claim; it may not attempt to determine the rights
28 of persons not before the court.” Zepeda v. United States Immigration Service, 753 F.2d 719,

1 727 (9th Cir. 1985). The order Plaintiff seeks would bar persons who are not defendants in this
2 action, and who are not before the court, from acting and would not remedy any of the claims
3 upon which this action proceeds. Therefore, the court lacks jurisdiction to issue the order
4 sought by Plaintiff, and Plaintiff's motion must be denied.

5 **III. CONCLUSION**

6 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's
7 motion for preliminary injunctive relief, filed on February 25, 2015, 2013, is DENIED for lack
8 of jurisdiction.

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10 IT IS SO ORDERED.

11 Dated: February 25, 2015

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