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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JOSEPH A. BROWN,

12 Plaintiff,

13 vs.

14 UNITED STATES OF AMERICA, et al.,

15 Defendants.  
16

1:12-cv-00165-AWI-GSA-PC

ORDER DENYING PLAINTIFF'S MOTION  
FOR PRELIMINARY INJUNCTIVE RELIEF  
AS MOOT  
(Doc. 47.)

17 **I. BACKGROUND**

18 Joseph A. Brown ("Plaintiff") is a federal prisoner proceeding pro se and in forma  
19 pauperis in this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388  
20 (1971). Plaintiff filed this case on February 6, 2012. (Doc. 1.)

21 On December 12, 2013, Plaintiff filed the Fourth Amended Complaint and a motion for  
22 preliminary injunctive relief. (Docs. 47, 48.) On February 6, 2014, the court issued an order  
23 dismissing the Fourth Amended Complaint for failure to state a claim, with leave to amend.  
24 (Doc. 51.)

25 Plaintiff's motion for preliminary injunctive relief is now before the court.

26 **II. PRELIMINARY INJUNCTIVE RELIEF**

27 The purpose of a preliminary injunction is to preserve the status quo if the balance of  
28 equities so heavily favors the moving party that justice requires the court to intervene to secure

1 the positions until the merits of the action are ultimately determined. University of Texas v.  
2 Camenisch, 451 U.S. 390, 395 (1981). A preliminary injunction is available to a plaintiff who  
3 “demonstrates either (1) a combination of probable success and the possibility of irreparable  
4 harm, or (2) that serious questions are raised and the balance of hardship tips in its favor.”  
5 Arcamuzi v. Continental Air Lines, Inc., 819 F. 2d 935, 937 (9th Cir. 1987). Under either  
6 approach the plaintiff “must demonstrate a significant threat of irreparable injury.” Id. Also, an  
7 injunction should not issue if the plaintiff “shows no chance of success on the merits.” Id. At a  
8 bare minimum, the plaintiff “must demonstrate a fair chance of success of the merits, or  
9 questions serious enough to require litigation.” Id.

10 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court  
11 must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95,  
12 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation  
13 of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of  
14 Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the court does not have an actual case or  
15 controversy before it, it has no power to hear the matter in question. Id. Thus, “[a] federal  
16 court may issue an injunction [only] if it has personal jurisdiction over the parties and subject  
17 matter jurisdiction over the claim; it may not attempt to determine the rights of persons not  
18 before the court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir.  
19 1985).

### 20 **Discussion**

21 Plaintiff requests an order voiding the results of his disciplinary hearing and remove  
22 him from the lockdown facility where he is housed.

23 On February 6, 2014, the court dismissed Plaintiff’s Fourth Amended Complaint for  
24 failure to state a claim, with leave to file a Fifth Amended Complaint which will supercede the  
25 Fourth Amended Complaint. (Doc. 51.) Plaintiff was granted thirty days in which to file the  
26 Fifth Amended Complaint. (Id.) Therefore, at this juncture, the court does not have before it  
27 an actual case or controversy, nor does the court have jurisdiction over any of the defendants in  
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1 this action. Zepeda, 753 F.2d at 727. Accordingly, Plaintiff's motion for preliminary  
2 injunctive relief shall be denied as moot.

3 **III. CONCLUSION**

4 Based on the foregoing, **IT IS HEREBY ORDERED** that Plaintiff's motion for  
5 preliminary injunctive relief, filed on December 12, 2013, is DENIED as moot.

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8 IT IS SO ORDERED.

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10 Dated: February 10, 2014

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE