

1 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court may request
2 the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

3 Without a reasonable method of securing and compensating counsel, the Court will seek
4 volunteer counsel only in the most serious and exceptional cases. In determining whether
5 “exceptional circumstances exist, the district court must evaluate both the likelihood of success of
6 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
7 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

8 In the present case, the Court does not find the required exceptional circumstances. Even
9 if it is assumed that Plaintiff is not well versed in the law and that he has made serious allegations
10 which, if proved, would entitle him to relief, his case is not exceptional. The legal issue in this
11 case — whether an unclothed body search was unreasonable — is not complex. A review of the
12 record in this case shows that Plaintiff is responsive, adequately communicates, and is able to
13 articulate his claims. Further, the Court cannot make a determination that Plaintiff is likely to
14 succeed on the merits. Id. Therefore, Plaintiff’s request for the appointment of counsel shall be
15 denied.

16 **II. REQUEST FOR TRANSFER TO FEDERAL BUREAU OF PRISONS**

17 Plaintiff also requests to be transferred to the Federal Bureau of Prisons. The Court
18 construes this request as a request for a preliminary injunction.

19 As a preliminary matter, however, a federal district court may issue emergency injunctive
20 relief only if it has personal jurisdiction over the parties and subject matter jurisdiction over the
21 lawsuit. See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 350 (1999) (noting
22 that one “becomes a party officially, and is required to take action in that capacity, only upon
23 service of summons or other authority-asserting measure stating the time within which the party
24 served must appear to defend.”). The court may not attempt to determine the rights of persons not
25 before it. See, e.g., Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229, 234-35 (1916); Zepeda
26 v. INS, 753 F.2d 719, 727-28 (9th Cir. 1983); see also Califano v. Yamasaki, 442 U.S. 682, 702
27 (1979) (injunctive relief must be “narrowly tailored to give only the relief to which plaintiffs are
28 entitled”). Under Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the parties

1 to the action,” their “officers, agents, servants, employees, and attorneys,” and “other persons
2 who are in active concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C).

3 On the merits, “[a] plaintiff seeking a preliminary injunction must establish that he is
4 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
5 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the
6 public interest.” Glossip v. Gross, 135 S. Ct. 2726, 2736-37 (2015) (quoting Winter v. Natural
7 Res. Def. Council, Inc., 555 U.S. 7, 20 (2008)). “Under *Winter*, plaintiffs must establish that
8 irreparable harm is likely, not just possible, in order to obtain a preliminary injunction.” Alliance
9 for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011).

10 Plaintiff is presently incarcerated at California State Prison-Solano (CSP-Solano) in
11 Vacaville, California. Plaintiff seeks a court order requiring someone to transfer him to the
12 Federal Bureau of Prisons, where he would reside until this case ends. As such, the injunction
13 would have to be at least in part directed to the Federal Bureau of Prisons. However, the events at
14 issue in Plaintiff’s Complaint allegedly occurred at California State Prison-Corcoran, when
15 Plaintiff was incarcerated at that facility. (ECF No. 1, p 3). Therefore, the order Plaintiff seeks
16 goes beyond the defendant in this case and the prison where the incident took place.
17 Accordingly, the Court lacks jurisdiction to issue the order sought by Plaintiff, and Plaintiff’s
18 request to be transferred must be denied.

19 Additionally, the requested transfer is not sufficiently related to the harm in Plaintiff’s
20 Complaint. Plaintiff’s Complaint relates to an unclothed body search. The transfer is not
21 something required to remedy the unclothed body search. It is thus outside the scope of the
22 Complaint.

23 \\\

24 \\\

25 \\\

26 \\\

27 \\\

28 \\\

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's Notice Concerning Present and Undue State Imposed Disability and Motion for Adequate-Just Relief is DENIED.

IT IS SO ORDERED.

Dated: October 21, 2016

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE