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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 KEVIN D. BRYANT,

12 Plaintiff,

13 vs.

14 R. ROMERO, et al.,

15 Defendants.  
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1:12-cv-02074-DAD-GSA-PC

ORDER DENYING PLAINTIFF'S  
MOTION FOR HEARING TO  
REQUEST INJUNCTIVE RELIEF  
(ECF No. 124.)

17 **I. BACKGROUND**

18 Kevin D. Bryant ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis  
19 with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint  
20 commencing this action on December 26, 2012. (ECF No. 1.) This case now proceeds with  
21 the First Amended Complaint filed by Plaintiff on December 2, 2013, against defendants  
22 Lieutenant C. Waddle and Correctional Officer E. Castellanos, on Plaintiff's First Amendment  
23 claim for retaliation. (ECF No. 16.) This case is in the discovery phase. Defendants' motions  
24 for summary judgment are pending. (ECF No. 92, 96.)

25 On July 28, 2016, Plaintiff filed a motion for a court hearing to request the protection of  
26 an incarcerated witness he intends to depose. (ECF No. 124.) On August 12, 2016, Defendant  
27 Castellanos filed an opposition. (ECF No. 130.) On August 19, 2016, Defendant Waddle  
28 joined in the opposition. (ECF No. 131.) The Court construes Plaintiff's motion as a motion

1 for a hearing to request preliminary injunctive relief. Plaintiff's motion is now before the  
2 Court.

## 3 **II. REQUEST FOR PRELIMINARY INJUNCTIVE RELIEF**

### 4 **A. Legal Standards**

5 The purpose of a preliminary injunction is to preserve the status quo if the balance of  
6 equities so heavily favors the moving party that justice requires the court to intervene to secure  
7 the positions until the merits of the action are ultimately determined. University of Texas v.  
8 Camenisch, 451 U.S. 390, 395 (1981). A preliminary injunction is available to a plaintiff who  
9 "demonstrates either (1) a combination of probable success and the possibility of irreparable  
10 harm, or (2) that serious questions are raised and the balance of hardship tips in its favor."  
11 Arcamuzi v. Continental Air Lines, Inc., 819 F. 2d 935, 937 (9th Cir. 1987). Under either  
12 approach the plaintiff "must demonstrate a significant threat of irreparable injury." Id. Also,  
13 an injunction should not issue if the plaintiff "shows no chance of success on the merits." Id.  
14 At a bare minimum, the plaintiff "must demonstrate a fair chance of success of the merits, or  
15 questions serious enough to require litigation." Id.

16 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court  
17 must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95,  
18 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation  
19 of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of  
20 Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the court does not have an actual case or  
21 controversy before it, it has no power to hear the matter in question. Id. Thus, "[a] federal  
22 court may issue an injunction [only] if it has personal jurisdiction over the parties and subject  
23 matter jurisdiction over the claim; it may not attempt to determine the rights of persons not  
24 before the court." Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir.  
25 1985).

### 26 **B. Discussion**

27 Plaintiff requests a hearing on his request for the Court to arrange for protection for an  
28 unidentified incarcerated witness he wishes to depose. Plaintiff argues that this witness's life

1 will be in danger when Defendants and defense counsel find out who he is and what he is going  
2 to disclose. Plaintiff requests an order of protection and a temporary restraining order to  
3 protect this witness.

4 In opposition, Defendants argue that the Court lacks jurisdiction to grant the relief  
5 requested by Plaintiff. Presuming that Plaintiff seeks an order requiring the Secretary of the  
6 California Department of Corrections and Rehabilitation to ensure that Plaintiff's witness  
7 remains safe, Defendants argue that the Court lacks jurisdiction to issue such an order because  
8 the Secretary is not a party to this case, nor is the Secretary alleged to be involved with the  
9 events at issue in this matter.

10 Defendants' argument has merit. The Court only has jurisdiction in this case over the  
11 parties who have appeared in the case and the subject matter of Plaintiff's complaint. Plaintiff  
12 seeks an order directing prison officials to ensure the protection of his inmate witness. The  
13 Court does not have jurisdiction to require prison officials to act on Plaintiff's behalf in this  
14 manner in this case. Therefore, Plaintiff's request for preliminary injunctive relief must be  
15 denied, and the Court shall not schedule a hearing for Plaintiff to make arguments in this  
16 matter.

17 **III. CONCLUSION**

18 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for a  
19 hearing to request preliminary injunctive relief, filed on July 28, 2016, is DENIED.

20 IT IS SO ORDERED.

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22 Dated: October 21, 2016

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