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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

G. J. GUTIERREZ,
Plaintiff,
vs.
A. GUTIERREZ,
Defendants.

1:13-cv-00421-GSA-PC
ORDER DENYING MOTION FOR
COURT ORDER
(Doc. 47.)

I. BACKGROUND

G. J. Gutierrez ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds on the initial Complaint filed by Plaintiff on March 22, 2013, against defendant Correctional Officer (C/O) A. Gutierrez, for use of excessive force and failure to protect Plaintiff. (Doc. 1.) Plaintiff has consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. § 636(c), and no other parties have appeared. (Doc. 5.)

On April 3, 2014, Plaintiff filed a motion for a court order directing the supervision of C/O Kennedy at Pleasant Valley State Prison (PVSP). (Doc. 10.)

II. MOTION FOR COURT ORDER

Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95,

1 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation
2 of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of
3 Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the court does not have an actual case or
4 controversy before it, it has no power to hear the matter in question. Id. Thus, “[a] federal
5 court may issue an injunction [only] if it has personal jurisdiction over the parties and subject
6 matter jurisdiction over the claim; it may not attempt to determine the rights of persons not
7 before the court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir.
8 1985).

9 Plaintiff seeks a court order directing staff at PVSP to supervise C/O Kennedy, who
10 allegedly threatened to tamper with Plaintiff’s mail, out of retaliation for Plaintiff filing this
11 civil lawsuit. Such an order would not remedy any of the claims in Plaintiff’s Complaint,
12 which arise from alleged acts of excessive force and failure to protect Plaintiff by C/O A.
13 Gutierrez, the sole defendant in this action. Therefore, the court has no power to hear the
14 matter in question, and Plaintiff’s motion shall be denied.

15 **III. CONCLUSION**

16 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for a court
17 order directing prison staff to supervise C/O Kennedy, is DENIED.

18 IT IS SO ORDERED.

19 Dated: April 4, 2014

20 /s/ Gary S. Austin
21 UNITED STATES MAGISTRATE JUDGE
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