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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 NICHOLAS CHRISTOPHER PAPPAS,

12 Plaintiff,

13 vs.

14 KERN VALLEY STATE PRISON, et al.,

15 Defendants.
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1:14-cv-00109-GSA-PC

ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTIVE RELIEF
(Doc. 11.)

17 **I. BACKGROUND**

18 Nicholas Christopher Pappas (“Plaintiff”) is a state prisoner proceeding pro se and in
19 forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the
20 Complaint commencing this action on January 27, 2014. (Doc. 1.)

21 On March 24, 2014, Plaintiff consented to Magistrate Judge jurisdiction in this action
22 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 6.)
23 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of
24 California, the undersigned shall conduct any and all proceedings in the case until such time as
25 reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

26 On September 26, 2014, Plaintiff filed a request for the court to protect him from
27 retaliation by correctional staff. (Doc. 11.) The court treats this request as a motion for
28 preliminary injunctive relief.

1 **II. MOTION FOR PRELIMINARY INJUNCTIVE RELIEF**

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

13 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court
14 must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95,
15 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation
16 of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of
17 Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the court does not have an actual case or
18 controversy before it, it has no power to hear the matter in question. Id. Thus, “[a] federal
19 court may issue an injunction [only] if it has personal jurisdiction over the parties and subject
20 matter jurisdiction over the claim; it may not attempt to determine the rights of persons not
21 before the court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir.
22 1985).

23 Plaintiff has requested the court to protect him from retaliation by prison staff. A court
24 order protecting Plaintiff from retaliation would not remedy any of the claims upon which this
25 action proceeds. This action is proceeding against defendant Lopez for use of excessive force
26 against Plaintiff, based on an incident occurring on September 20, 2013, before Plaintiff filed
27 this action in January 2014. Plaintiff now seeks a court order protecting him from present and
28 future actions. Because such an order would not remedy any of the claims upon which this

1 action proceeds, the Court lacks jurisdiction to issue the order sought by Plaintiff, and
2 Plaintiff's motion must be denied.

3 **III. CONCLUSION**

4 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion for
5 preliminary injunctive relief, filed on September 15, 2014, is DENIED.

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7 IT IS SO ORDERED.

8 Dated: September 29, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE