



1 temporary restraining order] must establish that he is likely to succeed on the merits, that he is likely  
2 to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his  
3 favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council,  
4 Inc., 555 U.S. 7, 20 (2008).

5 “[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be  
6 granted unless the movant, *by a clear showing*, carries the burden of persuasion.” Mazurek v.  
7 Armstrong, 520 U.S. 968, 972 (1997) (quotations and citations omitted) (emphasis in original). A  
8 party seeking a temporary restraining order or preliminary injunction simply cannot prevail when that  
9 motion is unsupported by evidence.

10 Federal courts are courts of limited jurisdiction and in considering a request for preliminary  
11 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before it  
12 an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95 102 (1983); Valley Forge  
13 Christian Coll. V. Ams. United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). If  
14 the Court does not have an actual case or controversy before it, it has no power to hear the matter in  
15 question. Id. Requests for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the  
16 Prison Litigation Reform Act, which requires that the Court find the “relief [sought] is narrowly  
17 drawn, extends no further than necessary to correct the violation of the Federal right, and is the least  
18 intrusive means necessary to correct the violation of the Federal right.”

19 In this case, Plaintiff seeks a court order directing prison officials to provide him with  
20 treatment for Hepatitis C; however, the Defendants have filed a motion to dismiss the complaint and  
21 the undersigned issued Findings and Recommendations to grant Defendants’ motion on December 7,  
22 2015, with leave to amend as to his claim for deliberate indifference to a serious medical need. See  
23 City of Los Angeles v. Lyons, 461 U.S. 95, 101-102 (1983) (plaintiff must show “real and immediate”  
24 threat of injury, and “[p]ast exposure to illegal conduct does not in itself show a present case or  
25 controversy regarding injunctive relief . . . . If unaccompanied by any continuing, present, adverse  
26 effects.”). Plaintiff has not alleged an immediate threatened injury. Los Angeles Memorial Coliseum  
27 Comm’n v. Nat’l Football League, 634 F.2d 1197, 1201 (9th Cir. 1980). Plaintiff’s request for a  
28 preliminary injunction must be denied for the same reasons set forth in the Findings and

1 Recommendations, issued December 7, 2015, in that Plaintiff has failed to state a cognizable claim  
2 against any individual for deliberate indifference to a serious medical need and therefore has not  
3 shown that he is “likely to succeed on the merits” on any claim, that “the balance of equities tips in his  
4 favor,” or that the issuance of an injunction in this case would serve the public interest. Winter, 555  
5 U.S. at 20. Although Plaintiff has submitted a fourth amended complaint, which was lodged by the  
6 Court on February 22, 2016, the Findings and Recommendations have not yet been resolved by the  
7 assigned district judge, and the Court has not yet screened Plaintiff’s fourth amended complaint  
8 pursuant to 28 U.S.C. § 1915A. Moreover, Plaintiff seeks an order against Dr. Chen who is not a  
9 party to the instant action. “A federal court may issue an injunction if it has personal jurisdiction over  
10 the parties and subject matter jurisdiction over the claim; *it may not attempt to determine the rights of*  
11 *persons not before the court.*” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th  
12 Cir. 1985) (emphasis added). Accordingly, Plaintiff’s request for injunctive relief must be denied.

13 **II.**

14 **RECOMMENDATION**

15 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion for  
16 injunctive relief be DENIED.

17 This Findings and Recommendation will be submitted to the United States District Judge  
18 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30) days**  
19 after being served with this Findings and Recommendation, the parties may file written objections  
20 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
21 Recommendation.” The parties are advised that failure to file objections within the specified time may

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result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: February 24, 2016

  
UNITED STATES MAGISTRATE JUDGE