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4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

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8 MARIO DULANEY,) Case No. 1:14-cv-1051-LJO-BAM
9 Plaintiff,)
10 v.) ORDER DENYING REQUEST FOR
11) INJUNCTIVE RELIEF
12) (ECF No. 9)
13 JERRY DYER, FRESNO POLICE)
14 DEPARTMENT, FRESNO POLICE)
OFFICER RICHARD BADILLA, FRESNO)
POLICE OFFICER MATHEW SILVER)
Defendant.)

15 Plaintiff Mario Dulaney (“Plaintiff”) appears to be a pretrial detainee proceeding pro se
16 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On October 24,
17 2014, Plaintiff filed a motion requesting the Court to permit non-collect calls to help with all the
18 legalities of the case. (Doc. 9.) The Court will construe Plaintiff’s motion as request for a
19 temporary restraining order/preliminary injunction to compel prison officials to allow telephone
20 calls. Plaintiff has consented to the jurisdiction of the Magistrate Judge. (Doc. 4.)

21 The purpose of a preliminary injunction is to preserve the status quo if the balance of
22 equities so heavily favors the moving party that justice requires the court to intervene to secure
23 the positions until the merits of the action are ultimately determined. *University of Texas v.*
24 *Camenisch*, 451 U.S. 390, 395, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981). “A plaintiff seeking a
25 preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to
26 suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
27 favor, and that an injunction is in the public interest.” *Winter v. Natural Resources Defense*
28 *Council, Inc.*, 555 U.S. 7, 129 S.Ct. 365, 374, 172 L.Ed.2d 249 (2008). “[A] preliminary

1 injunction is an extraordinary and drastic remedy, one that should not be granted unless the
2 movant, by a clear showing, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S.
3 968, 972, 117 S.Ct. 1865, 138 L.Ed.2d 162 (1997) (quotations and citations omitted) (emphasis
4 in original).

5 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court
6 must have before it an actual case or controversy. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102,
7 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983); *Valley Forge Christian Coll. v. Ams. United for*
8 *Separation of Church and State, Inc.*, 454 U.S. 464, 471, 102 S.Ct. 752, 70 L.Ed.2d 700 (1982).
9 If the court does not have an actual case or controversy before it, it has no power to hear the
10 matter in question. *Lyons*, 461 U.S. at 102. Thus, “[a] federal court may issue an injunction
11 [only] if it has personal jurisdiction over the parties and subject matter jurisdiction over the
12 claim; it may not attempt to determine the rights of persons not before the court.” *Zepeda v.*
13 *United States Immigration Serv.*, 753 F.2d 719, 727 (9th Cir.1985).

14 The pendency of this action does not give the Court jurisdiction over prison officials in
15 general. *Summers v. Earth Island Institute*, 555 U.S. 488, 491–93, 129 S.Ct. 1142, 173 L.Ed.2d 1
16 (2009); *Mayfield v. United States*, 599 F.3d 964, 969 (9th Cir.2010). The Court's jurisdiction is
17 limited to the parties in this action and to the viable legal claims upon which this action is
18 proceeding. *Summers*, 555 U.S. at 491–93; *Mayfield*, 599 F.3d at 969.

19 Plaintiff seeks a temporary restraining order/preliminary injunction ordering prison
20 officials to permit non-collect telephone calls. However, Plaintiff has not met the requirements
21 for a preliminary injunction. Further, this Court does not have jurisdiction over prison officials.
22 Finally, the Court dismissed the amended complaint with leave to amend and no claims are
23 currently pending. Accordingly, Plaintiff's motion for non-collect calls, construed as a motion a
24 motion for temporary restraining order/ preliminary injunction, is DENIED.

25 IT IS SO ORDERED.

26 Dated: January 21, 2015

27 /s/ Barbara A. McAuliffe
28 UNITED STATES MAGISTRATE JUDGE