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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
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9 DALE DUSTIN,

10 Plaintiff,

11 vs.

12 C. GIPSON, et al.,

13 Defendants.  
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15  
16

1:14-cv-01405-LJO-EPG (PC)

ORDER GRANTING PLAINTIFF'S  
MOTION FOR EXTENSION OF TIME  
AND DENYING PLAINTIFF'S  
REQUEST FOR TRANSFER

(ECF No. 39.)

THIRTY-DAY DEADLINE TO FILE  
AMENDED COMPLAINT

17 Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* in a civil rights  
18 action pursuant to 42 U.S.C. § 1983. On June 9, 2016, Plaintiff filed a motion for extension of  
19 time to file an amended complaint. (ECF No. 39.) Plaintiff also seeks a Court order  
20 transferring him to another prison facility. (Id.)

21 **I. MOTION FOR EXTENSION OF TIME**

22 Plaintiff requests an extension of time to file an amended complaint, pursuant to the  
23 Court's order of May 18, 2015 (ECF No. 19). Plaintiff claims that his personal property was  
24 taken from him by prison officials and only some of it was returned. Plaintiff asserts that he  
25 does not have his law books, leisure books, some of his legal paperwork, toothbrush,  
26 toothpaste, palmbrush, dental floss, soaps, soap, or coffee.

27 Plaintiff has not shown good cause for another extension of time. Plaintiff has not  
28 explained why he needs all of his missing property, or even some of his missing property, to

1 prepare and file an amended complaint. The Court offered Plaintiff guidance in the May 18,  
2 2015 screening order, instructing him to file an amended complaint clearly stating, in his own  
3 words, what happened to violate his rights.<sup>1</sup> Plaintiff was advised to name each individual  
4 defendant by name, describe where that defendant is employed and in what capacity, and  
5 explain how that defendant acted to violate his rights. Plaintiff was also advised that he does  
6 not need to set forth legal argument or evidence at this stage of the litigation. Plaintiff has not  
7 explained why he cannot follow the Court's instructions without access to his missing property.

8 Moreover, Plaintiff has had ample time to file an amended complaint. Plaintiff has been  
9 granted multiple extensions of time, and more than a year has passed since the Court ordered  
10 Plaintiff to file the amended complaint.

11 The Court is inclined to deny Plaintiff's motion for extension of time. However, in an  
12 abundance of caution, the Court shall allow Plaintiff one last extension of time to file an  
13 amended complaint. Plaintiff shall be granted thirty days from the date of this order in which  
14 to comply with the Court's May 18, 2015 screening order. **No further extensions of time  
15 shall be granted without a showing of good cause.**

16 **II. PRELIMINARY INJUNCTIVE RELIEF**

17 Plaintiff requests a Court order transferring him to another prison. The Court construes  
18 Plaintiff's request as a motion for preliminary injunctive relief.

19 "A plaintiff seeking a preliminary injunction must establish that he is likely to succeed  
20 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,  
21 that the balance of equities tips in his favor, and that an injunction is in the public interest." Id.  
22 at 374 (citations omitted). An injunction may only be awarded upon a *clear showing* that the  
23 plaintiff is entitled to relief. Id. at 376 (citation omitted) (emphasis added).

24 Federal courts are courts of limited jurisdiction and in considering a request for  
25 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary

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27 <sup>1</sup> In the May 18, 2015 screening order, the Court found that Plaintiff's Complaint, which  
28 included more than 48 pages of rambling and conclusory allegations, did not contain "a short and plain statement  
of the claim showing that the pleader is entitled to relief . . .", as required by Rule 8 of the Federal Rules of Civil  
Procedure. (ECF No. 19.)

1 matter, it have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S.  
2 95, 102 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and  
3 State, Inc., 454 U.S. 464, 471 (1982). If the Court does not have an actual case or controversy  
4 before it, it has no power to hear the matter in question. Id.

5 Plaintiff is presently incarcerated at Kern Valley State Prison (KVSP) in Delano,  
6 California, and seeks a Court order requiring officials at KVSP to transfer him to another prison  
7 facility of his choosing. Plaintiff requests “judicial override for transfer to either a federal  
8 prison (such as Lompoc) or to Lancaster or Donovan or (CHCF) Stockton Medical Facility. . .”  
9 (ECF No. 39 at 1.)

10 The Court lacks jurisdiction in this case to require prison officials at KVSP to transfer  
11 Plaintiff, because none of the KVSP officials are defendants in this case. “A federal court may  
12 issue an injunction [only] if it has personal jurisdiction over the parties and subject matter  
13 jurisdiction over the claim; it may not attempt to determine the rights of persons not before the  
14 court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985).  
15 Therefore, Plaintiff’s request for transfer must be denied.

16 **III. CONCLUSION**

17 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

18 1. Plaintiff is GRANTED one last extension of time until thirty days from the date  
19 of service of this order, to file an amended complaint in compliance with the Court’s screening  
20 order issued on May 19, 2015; and

21 2. Plaintiff’s request for transfer to another prison facility, filed on June 9, 2016, is  
22 DENIED for lack of jurisdiction.

23 IT IS SO ORDERED.  
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25 Dated: July 28, 2016

26 /s/ Eric P. Grogan  
27 UNITED STATES MAGISTRATE JUDGE  
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