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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MONICO J. QUIROGA III,

12 Plaintiff,

13 v.

14 TIMOTHY KING, *et al.*,

15 Defendants.
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Case No. 1:15-cv-01697-AWI-JDP

FINDINGS AND RECOMMENDATIONS
TO DENY PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION

(Doc. No. 54.)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

18 Plaintiff Monico J. Quiroga III is a state prisoner proceeding without counsel in this civil
19 rights action under 42 U.S.C. § 1983. He brings a Fourteenth Amendment Due Process claim
20 against defendants O. Fuentes and Timothy King. Plaintiff has filed a motion requesting to “add
21 jurisdiction [pursuant] to 28 U.S.C. § 2361” and a preliminary injunction. (Doc. No. 54.) For the
22 reasons described below, the court recommends denying plaintiff’s motion.

23 **I. RELIEF REQUESTED**

24 Plaintiff requests an injunction to enjoin “[nonstop] harassment over satellite.” (*Id.*) He has
25 submitted a declaration stating that the Kern County Sherriff’s Office Gang and Narcotics Task
26 Force is using military tactics, such as sensory deprivation, to invade his “sphere of the intellect.”

27 (*Id.*)
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2 **II. LEGAL STANDARDS**

3 A federal district court may issue injunctive relief only if the court has personal
4 jurisdiction over the parties and subject matter jurisdiction over the lawsuit. *See Murphy Bros.,*
5 *Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999) (noting that one “becomes a
6 party officially, and is required to take action in that capacity, only upon service of summons or
7 other authority-asserting measure stating the time within which the party served must appear to
8 defend”). The court may not attempt to determine the rights of persons not before it. *See*
9 *Hitchman Coal & Coke Co. v. Mitchell*, 245 U.S. 229, 234-35 (1916); *Zepeda v. INS*, 753 F.2d
10 719, 727-28 (9th Cir. 1983); *see also Califano v. Yamasaki*, 442 U.S. 682, 702 (1979)
11 (injunctive relief must be “narrowly tailored to give only the relief to which plaintiffs are
12 entitled”). Under Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the
13 parties to the action,” their “officers, agents, servants, employees, and attorneys,” and “other
14 persons who are in active concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C). Requests
15 for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation
16 Reform Act, which requires that the court find that the “relief [sought] is narrowly drawn,
17 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 “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.”
22 *Glossip v. Gross*, 135 S. Ct. 2726, 2736-37 (2015) (quoting *Winter v. Natural Res. Def.*
23 *Council, Inc.*, 555 U.S. 7, 20 (2008)). “[P]laintiffs must establish that irreparable harm is
24 likely, not just possible, in order to obtain a preliminary injunction.” *Alliance for the Wild*
25 *Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). In addition to establishing irreparable
26 harm, the injunctive relief sought must be related to the claims brought in the complaint. *See*
27 *Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015)
28 (“When a plaintiff seeks injunctive relief based on claims not pled in the complaint, the court

1 does not have the authority to issue an injunction.”).

2 **III. ANALYSIS**

3 As a preliminary matter, plaintiff cites to 28 U.S.C. § 2361 authority for his request.
4 The statute is applicable to interpleader actions and was cited in error. *See* 28 U.S.C. §2361
5 (applicable “[i]n any civil action of interpleader”). The court construes plaintiff’s injunction
6 request as a request for a preliminary injunction under Federal Rule of Civil Procedure 65.

7 The court will recommend that plaintiff’s motion for injunctive relief be denied. The
8 complaint alleges that defendants Fuentos and King violated plaintiff’s due process rights by
9 placing him in administrative segregation without good cause while he was detained in Kern
10 County. (Doc. No. 29.) The injunction request is directed at the Kern County Sherriff’s
11 Office, which is not a defendant in this case. The motion does not identify any conduct by
12 defendants Fuentos and King that plaintiff is seeking to enjoin. Thus, plaintiff appears to be
13 basing his injunction request on a claim of unconstitutional conditions of confinement that was
14 not pled in the complaint. Accordingly, the court does not have authority to issue the requested
15 injunction. *See Pac. Radiation Oncology*, 810 F.3d at 633 (“When a plaintiff seeks injunctive
16 relief based on claims not pled in the complaint, the court does not have the authority to issue
17 an injunction.”).

18 **IV. RECOMMENDATION**

19 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s motion for injunctive
20 relief (Doc. No. 54) be DENIED.

21 These findings and recommendations will be submitted to the U.S. district judge
22 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
23 (14) days of service of these findings and recommendations, plaintiff may file written
24 objections with the court. If plaintiff files such objections, he should do so in a document
25 captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is
26 advised that failure to file objections within the specified time may result in the waiver of rights
27 on appeal. *See Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v.*
28 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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IT IS SO ORDERED.

Dated: August 2, 2018


UNITED STATES MAGISTRATE JUDGE