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

12 Plaintiff,

13 v.

14 SERGEANT GRAVES, et al.,

15 Defendants.
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1:16-cv-00234-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF’S
MOTION FOR PRELIMINARY
INJUNCTION BE DENIED
(ECF No. 41.)**

**OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS**

18 **I. BACKGROUND**

19 Monico J. Quiroga III (“Plaintiff”) is a prisoner proceeding *pro se* and *in forma*
20 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the
21 Complaint commencing this action on February 19, 2016. (ECF No. 1.) Plaintiff’s Third
22 Amended Complaint, filed on March 30, 2018, awaits the court’s screening under 28 U.S.C. §
23 1915A. (ECF No. 41.)

24 On July 26, 2018, Plaintiff filed a motion for preliminary injunction. (ECF No. 41.)

25 **II. PRELIMINARY INJUNCTION**

26 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed
27 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,
28 that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Id.*

1 at 374 (citations omitted). An injunction may only be awarded upon a *clear showing* that the
2 plaintiff is entitled to relief. Id. at 376 (citation omitted) (emphasis added).

3 Federal courts are courts of limited jurisdiction and in considering a request for
4 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary
5 matter, it have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S.
6 95, 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for
7 Separation of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the
8 Court does not have an actual case or controversy before it, it has no power to hear the matter
9 in question. Id.

10 Plaintiff alleges nonstop harassment by the Kern County Sheriffs Gang & Narcotics
11 Task Force and claims that his “sphere of intellect” has been invaded using the military tactic
12 of sense deprivation. (ECF No. 41.) To the extent that Plaintiff seeks a court order enjoining
13 members of the Kern County Sheriffs Gang & Narcotics Task Force from acting against him,
14 the court lacks jurisdiction to issue such an order. At the time of the events at issue in this case
15 Plaintiff was a pretrial detainee at the Kern County Sheriff’s Detention Facility (Detention
16 Facility) in Bakersfield, California. Plaintiff is currently incarcerated at High Desert State
17 Prison in Susanville, California, in the custody of the California Department of Corrections and
18 Rehabilitation. Plaintiff’s motion for preliminary injunctive relief against officials at the
19 Detention Facility should be denied as moot as Plaintiff is no longer in custody there.¹ Where a
20 prisoner is challenging conditions of confinement and is seeking injunctive relief, transfer to
21 another prison renders the request for injunctive relief moot absent some evidence of an
22 expectation of being transferred back. See Preiser v. Newkirk, 422 U.S. 395, 402-03 (1975);
23 Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991) (per curiam); see also Andrews v.
24 Cervantes, 493 F.3d 1047, 1053 n.5 (9th Cir. 2007). Here, there is no evidence that Plaintiff

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27 ¹ On June 10, 2016, Plaintiff filed a notice of change of his address from the Detention Facility in
28 Bakersfield, California, to Wasco State Prison in Wasco, California. (ECF No. 15.) On October 21, 2016,
Plaintiff filed a notice of change of address to the High Desert State Prison in Susanville, California, where
Plaintiff is presently incarcerated. (ECF No. 17.)

1 expects to be transferred back to the Detention Facility in Bakersfield. Therefore, Plaintiff's
2 motion should be denied as moot.

3 **III. CONCLUSION AND RECOMMENDATIONS**

4 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion
5 for preliminary injunctive relief, filed on July 27, 2018, be DENIED as moot.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
8 **(14) days** after the date of service of these findings and recommendations, Plaintiff may file
9 written objections with the court. Such a document should be captioned "Objections to
10 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
11 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
12 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
13 (9th Cir. 1991)).

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15 IT IS SO ORDERED.

16 Dated: July 30, 2018

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE