



1 the Court vacated the findings and recommendations and ordered Plaintiff file an amended complaint.  
2 (ECF No. 14). Plaintiff filed his first amended complaint on July 20, 2016. (ECF No. 15). The Court  
3 has not yet screened Plaintiff’s first amended complaint pursuant to 28 U.S.C. § 1915A.

4 **II. Discussion**

5 “A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter v.  
6 Natural Resources Defense Council, Inc., 555 U.S. 7, 24, 129 S.Ct. 365, 376 (2008) (citation omitted).

7 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits,  
8 that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of  
9 equities tips in his favor, and that an injunction is in the public interest.” Id. at 20 (citations omitted).  
10 An injunction may only be awarded upon a clear showing that the plaintiff is entitled to relief. Id. at  
11 22 (citation omitted).

12 Federal courts are courts of limited jurisdiction and, in considering a request for injunctive  
13 relief, the Court is bound by the requirement that as a preliminary matter, it have before it an actual  
14 case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660, 1665 (1983);  
15 Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc., 454 U.S. 464,  
16 471, 102 S.Ct. 752, 757-58 (1982). If the Court does not have an actual case or controversy before it,  
17 it has no power to hear the matter in question. Lyons, 461 U.S. at 102; Valley Forge Christian Coll.,  
18 454 U.S. at 471. Thus, “[a] federal court may issue an injunction [only] if it has personal jurisdiction  
19 over the parties and subject matter jurisdiction over the claim; it may not attempt to determine the  
20 rights of persons not before the court.” Zepeda v. United States Immigration Serv., 753 F.2d 719, 727  
21 (9th Cir.1983); see Fed. R. Civ. P. 65(d) (listing persons bound by injunction).

22 In his motion for injunctive relief, Plaintiff requests that the Court order the defendant, his  
23 successor, agents, employees and all other persons working in concert with defendant to provide  
24 Plaintiff with “the wherewithal to have a realistic opportunity to meet the parole suitability  
25 requirements of the Board of Parole Hearings,” which should “include a treatment program designed  
26 to meet the BPH criteria as well [as] any other additional resources and services as needed.” (ECF No.  
27 7 at 2-3.) Plaintiff also requests that any transfer necessary to fulfill these requirements not result in  
28 the Plaintiff losing property or his rehabilitation materials. (*Id.* at 3.)

1 The Court has not screened Plaintiff's first amended complaint to determine whether Plaintiff  
2 states a cognizable claim. Therefore, at this stage of the proceedings, the Court does not have before it  
3 an actual case or controversy. The Court also does not have jurisdiction over the defendant in this  
4 action, as no service of the complaint has been ordered. Thus, the Court does not have jurisdiction at  
5 this time to issue any preliminary injunctive relief. Plaintiff's first amended complaint will be  
6 screened in due course. If it is determined that the amended complaint states cognizable claims for  
7 relief, Plaintiff may then seek preliminary injunctive relief related to those claims. Until such time,  
8 Plaintiff's request for a preliminary injunction is premature.

9 **III. Conclusion and Recommendation**

10 For the reasons stated, IT IS HEREBY RECOMMENDED that Plaintiff's motion for a  
11 preliminary injunction, filed April 11, 2016, and his related motion for an order to show cause, filed  
12 on May 17, 2016, be DENIED.

13 These Findings and Recommendations will be submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14)**  
15 **days** after being served with these Findings and Recommendations, the parties may file written  
16 objections with the Court. The document should be captioned "Objections to Magistrate Judge's  
17 Findings and Recommendations." The parties are advised that failure to file objections within the  
18 specified time may result in the waiver of the "right to challenge the magistrate's factual findings" on  
19 appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d  
20 1391, 1394 (9th Cir. 1991)).

21  
22 IT IS SO ORDERED.

23 Dated: January 23, 2017

/s/ Barbara A. McAuliffe  
24 UNITED STATES MAGISTRATE JUDGE