



1            “[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be  
2 granted unless the movant, *by a clear showing*, carries the burden of persuasion.” Mazurek v.  
3 Armstrong, 520 U.S. 968, 972 (1997) (quotations and citations omitted) (emphasis in original). A  
4 party seeking a temporary restraining order or preliminary injunction simply cannot prevail when that  
5 motion is unsupported by evidence.

6            Federal courts are courts of limited jurisdiction and in considering a request for preliminary  
7 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before it  
8 an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102 (1983); Valley Forge  
9 Christian Coll. V. Ams. United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). If  
10 the Court does not have an actual case or controversy before it, it has no power to hear the matter in  
11 question. Id. Requests for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the  
12 Prison Litigation Reform Act, which requires that the Court find the “relief [sought] is narrowly  
13 drawn, extends no further than necessary to correct the violation of the Federal right, and is the least  
14 intrusive means necessary to correct the violation of the Federal right.”

15            In his present motion, Plaintiff contends that guards have attacked him on May 17, 2018,  
16 August 8, 2018 and October 6, 2018, which resulted in several serious injuries. Plaintiff also contends  
17 that he has been denied medication and access to photocopy services, law library and legal property.

18            This action is proceeding on Plaintiff’s claim against defendants Usher, Rimbach, German,  
19 Ulit, Spaeth, and Sao for violation of the Eighth Amendment, based on Plaintiff’s allegations related to  
20 Valley Fever while housed at Kern Valley State Prison. (ECF No. 21.) The pendency of this case  
21 does not provide Plaintiff with standing to seek relief directed at remedying his current conditions of  
22 confinement, which are occurring at a different prison and which involve different prison employees.  
23 Summers v. Earth Island Institute, 555 U.S. 488, 493 (2009) (citation omitted); Lujan v. Defenders of  
24 Wildlife, 504 U.S. 555, 560-61 (1992); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010).  
25 Plaintiff is not entitled to any relief that is not narrowly drawn to correct the violation of his rights at  
26 issue in this action. The constitutional and statutory requirements applicable to equitable relief  
27 preclude Plaintiff from entitlement to generalized relief such an order directing that prison officials  
28 allow Plaintiff to receive his legal property. The equitable relief requested herein is not sufficiently

1 related to Plaintiff’s underlying legal claims to satisfy the jurisdictional requirements that apply to  
2 federal courts. Additionally, in the Court’s experience, some disruption with property access occurs  
3 following a transfer between prisons, and absent the existence of exceptional circumstances not  
4 present here, the Court will not intervene in the day-to-day management of prisons. See e.g., Overton  
5 v. Bazzetta, 539 U.S. 126, 132 (2003) (prison officials entitled to substantial deference); Sandin v.  
6 Conner, 515 U.S. 472, 482-83 (1995) (disapproving the involvement of federal courts in the day-to-  
7 day-management of prisons). Moreover, Plaintiff may not seek injunctive relief against an individual  
8 who is not a party to the instant action. “A federal court may issue an injunction if it has personal  
9 jurisdiction over the parties and subject matter jurisdiction over the claim; *it may not attempt to*  
10 *determine the rights of persons not before the court.*” Zepeda v. United States Immigration Service,  
11 753 F.2d 719, 727 (9th Cir. 1985) (emphasis added).

12 Here, the Court does not have jurisdiction over any parties at the California State Prison, Los  
13 Angeles County or the R.J. Donovan Correctional Facility. Moreover, even if the Court did not have  
14 jurisdiction over those individuals, Plaintiff has failed to establish the imminent irreparable harm  
15 required to support a preliminary injunction. Plaintiff alleges only violations of the law in the past,  
16 and he has failed to establish that there is a threat of future or repeated injury that is both “real and  
17 immediate,” not just “conjectural” or “hypothetical.” City of Los Angeles v. Lyons, 461 U.S. at 102.

18 Furthermore, and of significant note, on December 5, 2018, the undersigned issued Findings  
19 and Recommendations recommending that Plaintiff’s *in forma pauperis* status be revoked, and that he  
20 be required to pay the filing fee to proceed in this action. (ECF No. 22.) The undersigned found that  
21 this case proceeds upon allegations concerning Plaintiff’s exposure to Valley Fever cocci, and his  
22 eventual diagnosis with the disease on November 16, 2016. As this case and the most recent operative  
23 pleading (the first amended complaint) was filed well after that time, the undersigned found that  
24 Plaintiff had not pleaded that he faced an imminent danger of serious physical injury at the time he  
25 filed his operative pleading. Therefore, it was recommended to revoke Plaintiff’s *in forma pauperis*  
26 status. Plaintiff filed objections to the Finding and Recommendations on December 26, 2018, and the  
27 District Judge has not yet issued an order. (ECF No. 23.)

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**II.**  
**RECOMMENDATION**

Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff is not entitled to a preliminary injunction and/or temporary restraining order.

This Findings and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with this Findings and Recommendation, the parties may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The parties are advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: February 4, 2019

  
UNITED STATES MAGISTRATE JUDGE