



1       **I. THE MOTION**

2           Plaintiff alleges that on March 22, 2019, prison officials threatened to transfer him.  
3 Plaintiff informed prison officials that he has ongoing litigation, and that a transfer would “greatly  
4 hinder” him from prosecuting his case.

5           Plaintiff asks for an injunction prohibiting officials from carrying out a retaliatory transfer.

6       **II. LEGAL STANDARDS**

7           A federal district court may issue emergency injunctive relief only if it has personal  
8 jurisdiction over the parties and subject matter jurisdiction over the lawsuit. See Murphy Bros.,  
9 Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 350 (1999) (noting that one “becomes a party  
10 officially, and is required to take action in that capacity, only upon service of summons or other  
11 authority-asserting measure stating the time within which the party served must appear to  
12 defend.”). The court may not attempt to determine the rights of persons not before it. See, e.g.,  
13 Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229, 234-35 (1916); Zepeda v. INS, 753 F.2d  
14 719, 727-28 (9th Cir. 1983); see also Califano v. Yamasaki, 442 U.S. 682, 702 (1979) (injunctive  
15 relief must be “narrowly tailored to give only the relief to which plaintiffs are entitled”). Under  
16 Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the parties to the action,”  
17 their “officers, agents, servants, employees, and attorneys,” and “other persons who are in active  
18 concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C). “When a plaintiff seeks injunctive  
19 relief based on claims not pled in the complaint, the court does not have the authority to issue an  
20 injunction.” Pac. Radiation Oncology, LLC v. Queen's Med. Ctr., 810 F.3d 631, 633 (9th Cir.  
21 2015).

22           Requests for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the  
23 Prison Litigation Reform Act, which requires that the Court find that the “relief [sought] is  
24 narrowly drawn, extends no further than necessary to correct the violation of the Federal Right,  
25 and is the least intrusive means necessary to correct the violation of the Federal Right.”

26           On the merits, “[a] plaintiff seeking a preliminary injunction must establish that he is  
27 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of  
28 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the

1 public interest.” Gossip v. Gross, 135 S. Ct. 2726, 2736-37 (2015) (quoting Winter v. Natural  
2 Res. Def. Council, Inc., 555 U.S. 7, 20 (2008)). “Under *Winter*, plaintiffs must establish that  
3 irreparable harm is likely, not just possible, in order to obtain a preliminary injunction.” Alliance  
4 for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011).

### 5 **III. ANALYSIS**

6 The Court will recommend that the Motion be denied. To begin, Plaintiff does not appear  
7 to be alleging that the defendant in this case had anything to do with the transfer (Plaintiff does  
8 not name the officials who allegedly decided to transfer him, or the officials that he informed  
9 about his ongoing litigation). Plaintiff also does not allege that the defendant in this case has  
10 authority to prevent the transfer.

11 Additionally, Plaintiff has provided no evidence that the alleged transfer is retaliatory in  
12 nature. Instead, Plaintiff alleges, in a conclusory fashion, that the transfer is retaliatory.

13 Finally, Plaintiff has failed to establish that he is likely to suffer irreparable harm from a  
14 transfer. While Plaintiff alleges that the transfer will “greatly hinder” his ability to prosecute this  
15 case, Plaintiff does not explain (or present evidence to show) how the transfer will “greatly  
16 hinder” his ability to prosecute this case. The Court notes that if there is a particular deadline  
17 Plaintiff is unable to meet because of a transfer, Plaintiff may file a motion for an extension of  
18 that deadline.

### 19 **IV. RECOMMENDATION**

20 Accordingly, based on the foregoing, IT IS HEREBY RECOMMENDED that Plaintiff’s  
21 motion for a preliminary injunction be DENIED.

22 These findings and recommendations are submitted to the United States district judge  
23 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within twenty-one  
24 (21) days after being served with these findings and recommendations, any party may file written  
25 objections with the court. Such a document should be captioned “Objections to Magistrate  
26 Judge's Findings and Recommendations.” Any reply to the objections shall be served and filed  
27 within seven days after service of the objections. The parties are advised that failure to file  
28 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.

1 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394  
2 (9th Cir. 1991)).

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4 IT IS SO ORDERED.

5 Dated: April 4, 2019

/s/ Eric P. Gray  
6 UNITED STATES MAGISTRATE JUDGE

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