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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 JEFFREY THOMAS HARDIN, JR.,

10 Plaintiff,

11 v.

12 WARDEN OF HIGH DESERT STATE
PRISON, *et al.*,

13 Defendants.
14

1:17-cv-01314-DAD-JDP

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

(Doc. No. 10.)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

15 **I. RELIEF REQUESTED**

16 Plaintiff is a state prisoner proceeding pro se in this civil rights action brought under 42
17 U.S.C. § 1983. On March 12, 2018, plaintiff filed a proposed order for defendant Lerdo
18 Detention Facility to show cause why a preliminary injunction should not be issued in this case
19 to stop it from “denying and refusing to repair [plaintiff’s] undiagnosed lower and upper
20 intestinal damage caused by hiatal and inguinal hernias.” (Doc. No. 10.) Plaintiff also asks for
21 an injunction against the Kern County Sheriff Deputies to stop them from “apply[ing]
22 unnecessary force, [] inter[r]upting and terminating [plaintiff’s] medical appointments, []
23 making [him] a laughing spectacle when seeking medical services, [a]nd from ‘[losing]’ [his]
24 mail.” (*Id.*)

25 **II. LEGAL STANDARD**

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

26 **III. ANALYSIS**

27 As a preliminary matter, plaintiff frames his motion as a proposed order to show cause
28 why a preliminary injunction and temporary restraining order should not issue. The court

1 construes plaintiff's filing as a request for a preliminary injunction under Federal Rule of Civil
2 Procedure 65.

3 The court will recommend that plaintiff's motion for injunctive relief be denied for
4 three reasons. First, as the court noted in its screening order (Doc. No. 11), plaintiff has not
5 stated a claim upon which relief can be granted.¹ Accordingly, he has not established that he is
6 likely to succeed on the merits. Second, some of the injunctive relief plaintiff requests is
7 unrelated to the allegations underlying his complaint. The complaint alleges, *inter alia*, that
8 various prison officials failed to provide him with adequate medical care (Doc. No. 11), while
9 his motion for a preliminary injunction seeks to enjoin Kern County Sheriff Deputies from,
10 *inter alia*, disrupting his mail and using excessive force. The court does not have authority to
11 issue this requested injunctive relief. *See Pac. Radiation Oncology*, 810 F.3d at 633 ("When a
12 plaintiff seeks injunctive relief based on claims not pled in the complaint, the court does not
13 have the authority to issue an injunction."). Finally, portions of the injunction request are
14 directed at the Kern County Sherriff's Office, which is not a defendant in this case. The court
15 may not attempt to determine the rights of persons not before it. *See Hitchman Coal & Coke*
16 *Co.*, 245 U.S. 234-35.

17 IV. FINDINGS AND RECOMMENDATIONS

18 IT IS HEREBY RECOMMENDED that plaintiff's motion for injunctive relief (Doc. No.
19 10) be DENIED.

20 These findings and recommendations will be submitted to the U.S. district judge
21 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
22 days of service of these findings and recommendations, plaintiff may file written objections
23 with the court. If plaintiff files such objections, he should do so in a document captioned
24 "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that
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26 ¹ Plaintiff has not yet filed an amended complaint or notified the court that he wishes to stand
27 on his complaint, subject to findings and recommendations to the district judge consistent with
28 the screening order.

1 failure to file objections within the specified time may result in the waiver of rights on appeal.
2 See *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923
3 F.2d 1391, 1394 (9th Cir. 1991)).

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5 IT IS SO ORDERED.

6 Dated: August 9, 2018


UNITED STATES MAGISTRATE JUDGE

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