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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ANTHONY L. ROBINSON,

12 Plaintiff,

13 vs.

14 DAVE DAVEY, et al.,

15 Defendants.
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1:17-cv-01524-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
REQUEST FOR A PRELIMINARY
INJUNCTION BE DENIED**

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

19 **I. BACKGROUND**

20 Anthony L. Robinson ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
21 *pauperis* with this civil rights action pursuant to 42 U.S.C. §1983. Plaintiff filed the Complaint
22 commencing this action on November 15, 2017. (ECF Nos. 1, 2.)

23 Plaintiff's Complaint was unsigned. On May 22, 2018, the court issued an order
24 striking the Complaint for lack of signature and granted Plaintiff thirty days to submit a signed
25 complaint. (ECF No. 20.) On July 2, 2018, Plaintiff filed the First Amended Complaint
26 bearing his signature. (ECF No. 24.)

27 In the First Amended Complaint, Plaintiff requests a preliminary injunction. (ECF No.
28 24 at 28 ¶58.) Plaintiff's request is now before the court.

1 **II. PRELIMINARY INJUNCTIVE RELIEF**

2 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed
3 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,
4 that the balance of equities tips in his favor, and that an injunction is in the public interest.”
5 Winter v. Natural Resources Defense Counsel, Inc., 555 U.S. 7, 19, 129 S.Ct. 365, 376 (2008).
6 (citations omitted). An injunction may only be awarded upon a *clear showing* that the plaintiff
7 is entitled to relief. Id. at 21 (citation omitted) (emphasis added).

8 Federal courts are courts of limited jurisdiction and in considering a request for
9 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary
10 matter, it have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S.
11 95, 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for
12 Separation of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the
13 Court does not have an actual case or controversy before it, it has no power to hear the matter
14 in question. Id.

15 **Analysis**

16 Plaintiff seeks a court order prohibiting Defendants from using pepper spray, banning
17 the use of pepper spray by the California Department of Corrections and Rehabilitation,
18 stopping employees from turning a blind eye on the crime and misconduct of other employees,
19 and “exclude[ing] them from receiving retirement benefits.” ECF No. 24 at 28 ¶58.)

20 Plaintiff brings this case against prison officials at Corcoran State Prison for events
21 allegedly occurring in 2013 when Plaintiff was incarcerated at Corcoran State Prison. Plaintiff
22 now requests a court order protecting him from present and future actions by prison officials at
23 Corcoran State Prison. Such an order would not remedy any of the claims in this case which is
24 based upon events occurring in 2013. Therefore, the court lacks jurisdiction to issue the order
25 sought by Plaintiff, and Plaintiff’s request for a preliminary injunction must be denied.

26 **III. CONCLUSION AND RECOMMENDATIONS**

27 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff’s request
28 for preliminary injunctive relief be DENIED for lack of jurisdiction.

