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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 REGINALD R. THOMAS,

12 Plaintiff,

13 v.

14 MATEVOUSIAN, et al.,

15 Defendants.
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1:17-cv-1592-AWI-GSA-PC

FINDING AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF BE DENIED
(ECF No. 7.)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN (14) DAYS

19 **I. BACKGROUND**

20 Reginald R. Thomas ("Plaintiff") is a federal prisoner proceeding *pro se* and *in forma*
21 *pauperis* with this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388
22 (1971). Plaintiff filed the Complaint commencing this action on November 30, 2017, against
23 twelve defendants for denial of due process, denial of basic necessities including hygiene
24 supplies, denial of access to courts and retaliation. (ECF No. 1.) The Complaint awaits the
25 court's requisite screening under 28 U.S.C. § 1915A.

26 On March 8, 2018, Plaintiff filed a motion for a court order compelling prison officials
27 to provide him with paper, copies, and postage. (ECF No. 7.) The court construes Plaintiff's
28 request as a motion for preliminary injunctive relief.

1 **II. PRELIMINARY INJUNCTIVE RELIEF**

2 “A preliminary injunction is an extraordinary remedy never awarded as of right.”
3 Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 24, 129 S.Ct. 365, 376 (2008)
4 (citation omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely
5 to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
6 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the
7 public interest.” Id. at 20 (citations omitted). An injunction may only be awarded upon a clear
8 showing that the plaintiff is entitled to relief. Id. at 22 (citation omitted).

9 Federal courts are courts of limited jurisdiction and, in considering a request for
10 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have
11 before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103
12 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church
13 and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the Court does not have an
14 actual case or controversy before it, it has no power to hear the matter in question. Lyons, 461
15 U.S. at 102; Valley Forge Christian Coll., 454 U.S. at 471. Thus, “[a] federal court may issue
16 an injunction [only] if it has personal jurisdiction over the parties and subject matter
17 jurisdiction over the claim; it may not attempt to determine the rights of persons not before the
18 court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985).

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

23 **Discussion**

24 Plaintiff is presently incarcerated at the U.S. Penitentiary-Atwater in Atwater,
25 California, where he seeks a court order compelling the defendants to provide him with paper,
26 postage, and copies to prosecute this case.

27 The court lacks jurisdiction to issue the order sought by Plaintiff, because the order
28 requested by Plaintiff would not remedy any of the claims upon which this case proceeds. This

1 action is proceeding against defendants for events occurring before November 30, 2017.
2 Plaintiff now requests a court order ordering defendants officials to act based on events
3 occurring in 2018. Because such an order would not remedy any of the claims in this case
4 based upon events occurring before 2018, the court lacks jurisdiction to issue the order sought
5 by Plaintiff, and Plaintiff's motion must be denied.

6 Furthermore, the court recognizes that prison administrators "should be accorded wide-
7 ranging deference in the adoption and execution of policies and practices that in their judgment
8 are needed to preserve internal order and discipline and to maintain institutional security."
9 Whitley v. Albers, 475 U.S. 312, 321-322 (1986) (quoting Bell v. Wolfish, 441 U.S. 520, 547
10 (1970), accord Doe v. Kelly, 878 F. 3d 710, 714 (9th Cir. 2017). Accordingly, the court shall
11 defer to the prison's policies and practices in providing inmates with paper, postage, and
12 copies.

13 **III. CONCLUSION AND RECOMMENDATIONS**

14 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion
15 for preliminary injunctive relief, filed on March 8, 2018, be DENIED.

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
18 **(14) days** after the date of service of these findings and recommendations, Plaintiff may file
19 written objections with the court. Such a document should be captioned "Objections to
20 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
21 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
22 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
23 (9th Cir. 1991)).

24
25 IT IS SO ORDERED.

26 Dated: March 19, 2018

/s/ Gary S. Austin
27 UNITED STATES MAGISTRATE JUDGE