

1 and-unusual-punishment claim against Defendant Castellanos to proceed, Plaintiff has received
2 four rules violation reports (RVR). (ECF No. 76, p. 2). Three RVRs have been issued by James
3 Brown, a corrections officer at Mule Creek State Prison, who has harassed Plaintiff every day.
4 (*Id.*). Plaintiff has been put on “C. Status,” resulting in him no longer getting two phone calls per
5 month, not having regular yard access, and not being able to “physically” visit the law library.
6 (*Id.*). Plaintiff requests that the Court direct “J. Brown [to] leave [him] alone.” (*Id.* at 3).

7 **II. LEGAL STANDARDS**

8 A federal district court may issue emergency injunctive relief only if it has personal
9 jurisdiction over the parties and subject matter jurisdiction over the lawsuit. *See Murphy Bros.,*
10 *Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999) (noting that one “becomes a party
11 officially, and is required to take action in that capacity, only upon service of summons or other
12 authority-asserting measure stating the time within which the party served must appear to
13 defend”). The court may not attempt to determine the rights of persons not before it. *See, e.g.,*
14 *Hitchman Coal & Coke Co. v. Mitchell*, 245 U.S. 229, 234-35 (1916); *Zepeda v. INS*, 753 F.2d
15 719, 727-28 (9th Cir. 1983); *see also Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) (injunctive
16 relief must be “narrowly tailored to give only the relief to which plaintiffs are entitled”). Under
17 Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the parties to the action,”
18 their “officers, agents, servants, employees, and attorneys,” and “other persons who are in active
19 concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C). “When a plaintiff seeks injunctive
20 relief based on claims not pled in the complaint, the court does not have the authority to issue an
21 injunction.” *Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 633 (9th Cir.
22 2015).

23 On the merits, “[a] plaintiff seeking a preliminary injunction must establish that he is
24 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
25 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the
26 public interest.” *Glossip v. Gross*, 135 S. Ct. 2726, 2736-37 (2015) (quoting *Winter v. Natural*
27 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). “Under *Winter*, plaintiffs must establish that
28 irreparable harm is likely, not just possible, in order to obtain a preliminary injunction.” *Alliance*

1 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

2 **III. ANALYSIS**

3 The Court will recommend that Plaintiff’s motion for injunctive relief be denied.
4 Importantly, this case is only proceeding on Plaintiff’s cruel-and-unusual-punishment claim
5 against Defendant Castellanos. While Plaintiff previously raised retaliation claims in this lawsuit,
6 they have been dismissed, and in any event did not concern James Brown writing Plaintiff up for
7 multiple RVRs. *See Pac. Radiation Oncology*, 810 F.3d at 633 (“When a plaintiff seeks
8 injunctive relief based on claims not pled in the complaint, the court does not have the authority
9 to issue an injunction.”). James Brown, a corrections officer at Mule Creek State Prison, is not a
10 party to this case and does not appear to be in active concert or participation with Defendant
11 Castellanos, a corrections officer at CSATF. Fed. R. Civ. P. 65(d)(2)(A)-(C) (stating that an
12 injunction binds only “the parties,” their “officers, agents, servants, employees, and attorneys,”
13 and “other persons who are in active concert or participation.”).

14 Therefore, the Court will recommend that Plaintiff’s motion for injunctive relief be
15 denied.¹

16 **IV. RECOMMENDATIONS**

17 Accordingly, based on the foregoing, IT IS RECOMMENDED that Plaintiff’s filing (ECF
18 No. 76), which the Court construes as a motion for injunctive relief, be DENIED.

19 These findings and recommendations are submitted to the United States district judge
20 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
21 (14) days after being served with these findings and recommendations, any party may file written
22 objections with the court. Such a document should be captioned “Objections to Magistrate Judge’s
23 Findings and Recommendations.” Any response to the objections shall be served and filed within
24 fourteen (14) days after service of the objections.

25 \\\

26 \\\

27 _____
28 ¹ The Court notes that, if Plaintiff believes that James Brown is violating his constitutional rights,
he may file a separate lawsuit against James Brown.

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

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 8, 2022

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE