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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 CHRISTOPHER LIPSEY, JR.,

12 Plaintiff,

13 vs.

14 N. HAND-RONGA, et al.,

15 Defendants.
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1:17-cv-01704-LJO-GSA-PC

FINDING AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTIVE
RELIEF BE DENIED
(ECF No. 6.)

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

19 **I. BACKGROUND**

20 Christopher Lipsey, Jr. ("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
22 Complaint commencing this action on December 19, 2017. (ECF No. 1.) Plaintiff's Complaint
23 awaits the court's requisite screening under 28 U.S.C. § 1915A.

24 On January 8, 2018, Plaintiff filed a motion for preliminary injunctive relief. (ECF No.
25 6.)

26 **II. PRELIMINARY INJUNCTIVE RELIEF**

27 "A preliminary injunction is an extraordinary remedy never awarded as of right."
28 Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 24, 129 S.Ct. 365, 376 (2008)

1 (citation omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely
2 to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
3 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the
4 public interest.” Id. at 20 (citations omitted). An injunction may only be awarded upon a clear
5 showing that the plaintiff is entitled to relief. Id. at 22 (citation omitted).

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

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

20 **Discussion**

21 Plaintiff is presently incarcerated at Corcoran State Prison in Corcoran, California, and
22 he seeks a court order compelling prison officials to house him permanently in a single cell, to
23 give him full privileges wherever he is housed, to refrain from housing him on a Sensitive
24 Needs Yard, to refrain from disclosing why he is single-celled, and to refrain from retaliating
25 against him for this preliminary injunction.

26 The court lacks jurisdiction to issue the order sought by Plaintiff as the order requested
27 by Plaintiff would not remedy any of the claims upon which this case proceeds. This action is
28 proceeding against defendants on claims for violation of due process, failure to protect, failure

1 to train, mail interference, and for wrongly being labeled a sex offender, all based on events
2 occurring in 2017. Plaintiff now requests a court order requiring officials to act based on
3 present and future events. Because such an order would not remedy any of the claims in this
4 case, the court lacks jurisdiction to issue the order sought by Plaintiff, and Plaintiff's motion
5 must be denied.

6 **III. CONCLUSION AND RECOMMENDATIONS**

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

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

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18 IT IS SO ORDERED.

19 Dated: March 21, 2018

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE