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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ISAIAH J. PETILLO,

12 Plaintiff,

13 vs.

14 GALLAGHER, et al.,

15 Defendants.
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1:18-cv-00217-LJO-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF BE DENIED**

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

17 **I. BACKGROUND**

18 Isaiah J. Petillo ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis*
19 with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
20 commencing this action on February 12, 2018. (ECF No. 1.) In the Complaint, Plaintiff
21 requests an injunction "ASAP" for officials at Corcoran State Prison (CSP) to return his
22 personal property. (*Id.* at 8.)¹ The court construes this request as a motion for preliminary
23 injunctive relief.

24 **II. PRELIMINARY INJUNCTIVE RELIEF**

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

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28 ¹ All page numbers cited herein are those assigned by the court's CM/ECF system and not based
on Plaintiff's pagination of his Complaint.

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 narrowly
18 drawn, extends no further than necessary to correct the violation of the Federal right, and is the
19 least intrusive means necessary to correct the violation of the Federal right.”

20 **Discussion**

21 The court lacks jurisdiction to issue the order sought by Plaintiff. At this stage of the
22 proceedings, defendants have not been served or appeared in this case. “A federal court may
23 issue an injunction [only] if it has personal jurisdiction over the parties and subject matter
24 jurisdiction over the claim; it may not attempt to determine the rights of persons not before the
25 court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985).
26 Therefore, Plaintiff’s motion for preliminary injunctive relief should be denied.

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1 **III. CONCLUSION AND RECOMMENDATIONS**

2 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion
3 for preliminary injunctive relief, filed on February 12, 2018, be DENIED for lack of
4 jurisdiction.

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

13
14 IT IS SO ORDERED.

15 Dated: October 26, 2018

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