

1 with “pebbles” and various holes (*Id.*); and an overhaul of the cafeteria, where there is black mold
2 and contaminated, cold food (*Id.*).

3 **II. LEGAL STANDARDS**

4 A federal district court may issue injunctive relief only if the court has personal
5 jurisdiction over the parties and subject matter jurisdiction over the lawsuit. *See Murphy Bros.,*
6 *Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999) (noting that one “becomes a party
7 officially, and is required to take action in that capacity, only upon service of summons or other
8 authority-asserting measure stating the time within which the party served must appear to
9 defend”). The court may not attempt to determine the rights of persons not before it. *See*
10 *Hitchman Coal & Coke Co. v. Mitchell*, 245 U.S. 229, 234-35 (1916); *Zepeda v. INS*, 753 F.2d
11 719, 727-28 (9th Cir. 1983); *see also Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) (injunctive
12 relief must be “narrowly tailored to give only the relief to which plaintiffs are entitled”). Under
13 Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the parties to the action,”
14 their “officers, agents, servants, employees, and attorneys,” and “other persons who are in active
15 concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C). Requests for prospective relief are
16 further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which requires
17 that the court find that the “relief [sought] is narrowly drawn, extends no further than necessary to
18 correct the violation of the Federal Right, and is the least intrusive means necessary to correct the
19 violation of the Federal Right.”

20 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on
21 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
22 balance of equities tips in his favor, and that an injunction is in the public interest.” *Glossip v.*
23 *Gross*, 135 S. Ct. 2726, 2736-37 (2015) (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555
24 U.S. 7, 20 (2008)). “[P]laintiffs must establish that irreparable harm is likely, not just possible, in
25 order to obtain a preliminary injunction.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d
26 1127, 1131 (9th Cir. 2011). In addition to establishing irreparable harm, the injunctive relief
27 sought must be related to the claims brought in the complaint. *See Pac. Radiation Oncology, LLC*
28 *v. Queen’s Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015) (“When a plaintiff seeks injunctive relief

1 based on claims not pled in the complaint, the court does not have the authority to issue an
2 injunction.”). A permanent injunction can be granted only following a final hearing on the
3 merits. *See MAI Sys. Corp. v. Peak Computer, Inc.*, 991 F.2d 511, 520 (9th Cir.1993) (“As a
4 general rule, a permanent injunction will be granted when liability has been established . . .”).

5 **III. ANALYSIS**

6 The court will recommend that plaintiff’s motion for injunctive relief be denied. His
7 request for a permanent injunction is premature; there has not been a final hearing on the merits.
8 Plaintiff’s request for a temporary injunction should also be denied because he has not established
9 that he is likely to succeed on the merits. His allegations are conclusory and bereft of detail.
10 Furthermore, plaintiff’s motion is unrelated to the allegations underlying his complaint. The
11 complaint—which, like the motion, is difficult to decipher—alleges, *inter alia*, that plaintiff was
12 transferred in retaliation for engaging in a protected act and was deprived of medical treatment
13 and accommodations. (Doc. No. 1, at 20-24.) Plaintiff appears to be basing his injunction
14 request on a claim of unconstitutional conditions of confinement that was not pled in the
15 complaint.

16 **IV. RECOMMENDATION**

17 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s motion for injunctive
18 relief be DENIED.

19 These findings and recommendations will be submitted to the U.S. district judge assigned
20 to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14) days of
21 service of these findings and recommendations, plaintiff may file written objections with the
22 court. If plaintiff files such objections, he should do so in a document captioned “Objections to
23 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
24 objections within the specified time may result in the waiver of rights on appeal. *See Wilkerson v.*
25 *Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394
26 (9th Cir. 1991)).

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IT IS SO ORDERED.

Dated: July 25, 2018


UNITED STATES MAGISTRATE JUDGE