

1 The purpose of a preliminary injunction is to preserve the status quo if the balance of equities
2 so heavily favors the moving party that justice requires the court to intervene to secure the positions
3 until the merits of the action are ultimately determined. Univ. of Texas v. Camenisch, 451 U.S. 390,
4 395, 101 S. Ct. 1830, 68 L. Ed. 2d 175 (1981). “A plaintiff seeking a preliminary injunction must
5 establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the
6 absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in
7 the public interest.” Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 129 S. Ct. 365,
8 374, 172 L. Ed. 2d 249 (2008). “[A] preliminary injunction is an extraordinary and drastic remedy,
9 one that should not be granted unless the movant, *by a clear showing*, carries the burden of
10 persuasion.” Mazurek v. Armstrong, 520 U.S. 968, 972, 117 S. Ct. 1865, 138 L. Ed. 2d 162 (1997)
11 (quotations and citations omitted) (emphasis in original).

12 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must
13 have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.
14 Ct. 1660, 75 L. Ed. 2d 675 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of
15 Church and State, Inc., 454 U.S. 464, 471, 102 S. Ct. 752, 70 L. Ed. 2d 700 (1982). If the court does
16 not have an actual case or controversy before it, it has no power to hear the matter in question. Lyons,
17 461 U.S. at 102. Thus, “[a] federal court may issue an injunction [only] if it has personal jurisdiction
18 over the parties and subject matter jurisdiction over the claim; it may not attempt to determine the
19 rights of persons not before the court.” Zepeda v. United States Immigration Serv., 753 F.2d 719, 727
20 (9th Cir. 1985).

21 The pendency of this action does not give the Court jurisdiction over prison officials in
22 general. Summers v. Earth Island Institute, 555 U.S. 488, 491–93, 129 S. Ct. 1142, 173 L. Ed. 2d 1
23 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). The Court’s jurisdiction is
24 limited to the parties in this action and to the viable legal claims upon which this action is proceeding.
25 Summers, 555 U.S. at 491–93; Mayfield, 599 F.3d at 969.

26 Plaintiff has not met the requirements for the injunctive relief he seeks in this motion. In this
27 matter, by way of separate order, the Court has screened Plaintiff’s complaint and found that he has
28 stated a cognizable claim for excessive force against Defendants Rocha and Hicks only. No Defendant

1 has been ordered served, and no Defendant has yet made an appearance. Thus, the Court at this time
2 lacks personal jurisdiction over any prison officials at KVSP. In addition, Plaintiff names and
3 acknowledges that he is seeking relief against individuals who are not named as Defendants in this
4 action. Furthermore, at this early stage in the litigation and based on the limited record, the Court cannot
5 find that Plaintiff has demonstrated a likelihood of success on the merits. Accordingly, Plaintiff's
6 motion for a temporary restraining order should be denied.

7 **II.**

8 **RECOMMENDATION**

9 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 10 1. Plaintiff's motion for a temporary restraining order be denied; and
11 2. The Clerk of Court is directed to randomly assign a District Judge to this action.

12 This Findings and Recommendation will be submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **thirty (30) days** after
14 being served with this Findings and Recommendation, Plaintiff may file written objections with the
15 Court. The document should be captioned "Objections to Magistrate Judge's Findings and
16 Recommendation." Plaintiff is advised that failure to file objections within the specified time may
17 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
18 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19
20 IT IS SO ORDERED.

21 Dated: May 15, 2018

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24 UNITED STATES MAGISTRATE JUDGE