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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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10 CHRISTOPHER ALLEN VAN GESSEL,

11 Plaintiff,

12 vs.

13 THOMAS MOORE, et al.,

14 Defendants.  
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1:18-cv-01478-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT PLAINTIFF'S  
REQUEST FOR PRELIMINARY  
INJUNCTIVE RELIEF BE DENIED  
(ECF No. 9.)**

**OBJECTIONS, IF ANY, DUE WITHIN  
FOURTEEN DAYS**

17 **I. BACKGROUND**

18 Christopher Allen Van Gessel ("Plaintiff") is a federal prisoner proceeding *pro se* and *in*  
19 *forma pauperis* with this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403  
20 U.S. 388 (1971). Plaintiff filed the Complaint commencing this action on October 26, 2018.  
21 (ECF No. 1.) On September 24, 2019, the court screened the Complaint under 28 U.S.C. § 1915A  
22 and issued an order requiring Plaintiff to either file a First Amended Complaint, or notify the  
23 court that he is willing to proceed only with the claims found cognizable by the court. (ECF No.  
24 8.) On October 7, 2019, Plaintiff filed the First Amended Complaint, which awaits the court's  
25 screening. (ECF No. 10.)

26 On October 7, 2019, Plaintiff filed a motion for an order requiring prison officials to  
27 maintain at least six typewriters in the prison library. (ECF No. 9.) The court construes  
28 Plaintiff's motion as a motion for preliminary injunctive relief.

1 **II. PRELIMINARY INJUNCTIVE RELIEF**

2 “A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter  
3 v. Natural Resources Defense Council, Inc., 555 U.S. 7, 24, 129 S.Ct. 365, 376 (2008) (citation  
4 omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed  
5 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that  
6 the balance of equities tips in his favor, and that an injunction is in the public interest.” Id. at 20  
7 (citations omitted). An injunction may only be awarded upon a clear showing that the plaintiff  
8 is entitled to relief. Id. at 22 (citation omitted).

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

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

23 **Analysis**

24 Plaintiff requests the court to direct the Warden, his staff, and the Bureau of Prisons to  
25 maintain at least six working typewriters in the library at USP-Atwater where Plaintiff is  
26 incarcerated. The purpose is to allow Plaintiff to use these for his legal work. Plaintiff asserts  
27 that his life is more miserable because he is forced to write everything by hand. Plaintiff contends  
28 that the Code of Federal Regulations at 28 C.F.R. § 543.11(h) requires typewriters to be placed

1 in the library at each federal prison.

2 The court however lacks jurisdiction to issue the order sought by Plaintiff because the  
3 order would not remedy any of the claims upon which this case proceeds. This case was filed  
4 against defendants based on Plaintiff's allegations that he was denied adequate medical care  
5 during events beginning on March 12, 2018. Plaintiff now requests a court order for officials at  
6 USP-Atwater to place typewriters in the library. Because such an order would not remedy any  
7 of the claims in this case, and because the court currently lacks jurisdiction over the prison  
8 officials as they are not yet parties to this action, Plaintiff's motion must be denied.

9 **III. CONCLUSION AND RECOMMENDATIONS**

10 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion for  
11 preliminary injunctive relief, filed on October 7, 2019, be DENIED for lack of jurisdiction.

12 These findings and recommendations are submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**  
14 **(14) days** after the date of service of these findings and recommendations, Plaintiff may file  
15 written objections with the court. Such a document should be captioned "Objections to  
16 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
17 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.  
18 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394  
19 (9th Cir. 1991)).

20 IT IS SO ORDERED.

21 Dated: October 29, 2019

22 /s/ Gary S. Austin  
23 UNITED STATES MAGISTRATE JUDGE