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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE GARCIA,

12 Plaintiff,

13 vs.

14 U. BANIGA, et al.,

15 Defendants.
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1:19-cv-01258-AWI-GSA-PC

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

**OBJECTIONS, IF ANY, DUE WITHIN 14
DAYS**

17 **I. BACKGROUND**

18 Jose Garcia ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in
19 this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing
20 this action on September 10, 2019 (ECF No. 1.) The court screened the Complaint under 28
21 U.S.C. § 1915A and issued an order on September 23, 2019, requiring Plaintiff to respond
22 within thirty days by either filing an amended complaint or notifying the court that he is willing
23 to proceed only against defendant, Dr. Rodriguez, on Plaintiff's medical claim found
24 cognizable by the court. (ECF No. 8.)

25 In the prayer of the Complaint, Plaintiff requests the court to "[g]rant injunction
26 mandating that the Defendants provide effective and adequate and speedy medical care for
27 Plaintiff's medical conditions (surgery specialists for hernia removal)." (ECF No. 1 at 13.)
28 Also, Plaintiff titles the Complaint "an emergency action, based upon the chronic and urgency

1 of Plaintiff's medical condition regarding Plaintiff's injunctive demand." (ECF No. 1 at 1.)
2 Based on the urgency of Plaintiff's requests, the court construes Plaintiff request as a motion
3 for preliminary injunctive relief.

4 **II. PRELIMINARY INJUNCTIVE RELIEF**

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

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

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

26 **Discussion**

27 Plaintiff requests a court order requiring Defendants to provide him with immediate
28 medical care. At this stage of the proceedings the court awaits Plaintiff's response to the

1 court's screening order, and therefore there is no complaint on file in this case with which to
2 proceed. The court therefore cannot opine that Plaintiff is likely to succeed on the merits of his
3 claims. Furthermore, no defendants have yet appeared in this action and the court does not
4 have jurisdiction to order injunctive relief which would require directing individuals not before
5 the Court to take action. Zepeda v. United States Immigration & Naturalization Serv., 753 F.2d
6 719, 727 (9th Cir. 1985) ("A federal court may issue an injunction if it has personal jurisdiction
7 over the parties and subject matter jurisdiction over the claim; it may not attempt to determine
8 the rights of persons not before the court.").

9 Therefore, Plaintiff's motion must be denied. Plaintiff is not precluded from renewing
10 the motion at a later stage of the proceedings.

11 **III. CONCLUSION AND RECOMMENDATIONS**

12 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion
13 for preliminary injunctive relief, filed on September 10, 2019, be DENIED, without prejudice.

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
16 **(14) days** after the date of service of these findings and recommendations, Plaintiff may file
17 written objections with the court. Such a document should be captioned "Objections to
18 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
19 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
20 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
21 (9th Cir. 1991)).

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23 IT IS SO ORDERED.

24 Dated: September 27, 2019

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