

1 to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
2 favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council,
3 Inc., 555 U.S. 7, 20 (2008).

4 “[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be
5 granted unless the movant, *by a clear showing*, carries the burden of persuasion.” Mazurek v.
6 Armstrong, 520 U.S. 968, 972 (1997) (quotations and citations omitted) (emphasis in original). A party
7 seeking a temporary restraining order or preliminary injunction simply cannot prevail when that motion
8 is unsupported by evidence.

9 Federal courts are courts of limited jurisdiction and in considering a request for preliminary
10 injunctive 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 (1983); Valley Forge
12 Christian Coll. V. Ams. United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). If
13 the Court does not have an actual case or controversy before it, it has no power to hear the matter in
14 question. Id. Requests for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the
15 Prison Litigation Reform Act, which requires that the Court find the “relief [sought] is narrowly drawn,
16 extends no further than necessary to correct the violation of the Federal right, and is the least intrusive
17 means necessary to correct the violation of the Federal right.”

18 A federal court may issue emergency injunctive relief only if it has personal jurisdiction over
19 the parties and subject matter jurisdiction over the lawsuit. See Murphy Bros., Inc. v. Michetti Pipe
20 Stringing, Inc., 526 U.S. 344, 350 (1999) (noting that one “becomes a party officially, and is required
21 to take action in that capacity, only upon service of summons or other authority-asserting measure stating
22 the time within which the party served must appear to defend.”). The Court may not attempt to
23 determine the rights of persons not before it. See Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229,
24 234-35 (1916); Zepeda v. INS, 753 F.2d 719, 727-28 (9th Cir. 1983).

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1 **II.**

2 **DISCUSSION**

3 Plaintiff seeks an order preventing Defendants A. Flores, E. Garcia, E. Dodson, C. Valencia,
4 and G. Correa from harassing and/or destroying any of his legal or personal property.

5 As an initial matter, the United States Marshal has yet to effect service on any Defendant, and
6 Defendants have no actual notice. Therefore, the Court has no personal jurisdiction over any
7 Defendant at this time. Fed. R. Civ. P. 65(d)(2); Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.,
8 526 U.S. 344, 350 (1999); Zepeda v. U.S. I.N.S., 753 F.2d 719, 727-28 (9th Cir. 1983). In addition,
9 Plaintiff's complaint deals with actions that took place at North Kern State Prison. However, Plaintiff
10 is currently incarcerated at R.J. Donovan Correctional Facility. An inmate's transfer from a prison
11 facility generally moots claims for injunctive relief against officials of that facility. Nelson v. Heiss,
12 271 F.3d 891, 897 (9th Cir. 2001) (“[W]hen a prisoner is moved from a prison, his action will usually
13 become moot as to conditions at that particular facility” (citing Dilley v. Gunn, 64 F.3d 1365, 1368-69
14 (9th Cir. 1995))); Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991) (claims for injunctive relief
15 related to conditions of confinement were moot where prisoner was transferred to another facility and
16 “demonstrated no reasonable expectation of returning to [the original facility].” (citing Darring v.
17 Kincheloe, 783 F.2d 874, 876 (9th Cir. 1986))). Therefore, to the extent plaintiff seeks to enjoin the
18 conduct of individuals at North Kern State Prison, his claims for relief are moot in light of his transfer
19 to the R.J. Donovan Correctional Facility and an absence of evidence that he will be subject to those
20 conditions again. Further, even if the Court had personal jurisdiction over the individuals named in
21 the complaint, Plaintiff has failed to demonstrate imminent irreparable harm necessary to support a
22 preliminary injunction. See Winter, 555 U.S. at 20; Alliance for the Wild Rockies v. Cottrell, 632
23 F.3d 1127, 1131 (9th Cir. 2011). “The fact that plaintiff has met the pleading requirements allowing
24 him to proceed with the complaint does not, ipso facto, entitle him to a preliminary injunction.”
25 Claiborne v. Blausner, No. CIV S-10-2427 LKK, 2011 WL 3875892, at *8 (E.D. Cal. Aug. 31, 2011),
26 report and recommended adopted, No. CIV S-10-2427 LKK, 2011 WL 4765000 (E.D. Cal. Sept. 29,
27 2011). Instead, to meet the “irreparable harm” requirement, Plaintiff must do more than simply allege
28 imminent harm; he must demonstrate it. Caribbean Marine Servs. Co., Inc. v. Baldrige, 844 F.2d

1 668, 674 (9th Cir. 1988). Mere “[s]peculative injury does not constitute irreparable injury sufficient to
2 warrant granting a preliminary injunction.” Id. at 674-75.

3 **III.**

4 **RECOMMENDATION**

5 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion for a
6 preliminary injunction and/or temporary restraining order be denied.

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

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15 IT IS SO ORDERED.

16 Dated: October 28, 2020



17 UNITED STATES MAGISTRATE JUDGE