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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 SHAKA S. MUHAMMAD,

11 Plaintiff,

No. CIV S-10-0143 DAD P

12 vs.

13 D.K. SISTO, et al.,

14 Defendants.

ORDER

15 \_\_\_\_\_/  
16 Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil  
17 rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's May 7, 2010  
18 motion for a temporary restraining order/preliminary injunction.

19 "A federal court may issue an injunction if it has personal jurisdiction over the  
20 parties and subject matter over the claim; it may, [however,] not attempt to determine the rights  
21 of persons not before the court." Zepeda v. United States Immigration Service, 753 F.2d 719,  
22 727 (9th Cir. 1985). By order filed April 23, 2010, the court directed the United States Marshal  
23 to request a waiver of service of summons from each named defendant. As of the date of this  
24 order, none of the defendants have waived service nor have they been personally served process

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1 by the United States Marshal.<sup>1</sup> Therefore, at this juncture, defendants are not yet parties before  
2 the court and plaintiff's motion for a preliminary injunction is premature. Plaintiff may re-file  
3 his motion seeking preliminary relief after defendants have been served.

4 Accordingly, IT IS HEREBY ORDERED that plaintiff's May 7, 2010 motion for  
5 a temporary restraining order/preliminary injunction (Doc. No. 14) is denied, without prejudice,  
6 as premature.

7 DATED: May 19, 2010.

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10 DALE A. DROZD  
11 UNITED STATES MAGISTRATE JUDGE

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23 <sup>1</sup> In accordance with the court's order filed April 23, 2010, the United States Marshal was  
24 directed to request a waiver of service of summons from each defendant within ten days from the  
25 date of the order. Thereafter, each defendant has sixty days to file an executed waiver of service.  
26 If the sixty day period expires and a defendant has not waived service, the United States Marshal  
will personally serve process on the defendant pursuant to Rule 4 of the Federal Rules of Civil  
Procedure.