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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 JUAN LAYA SALAS,

12 Plaintiff,

13 v.

14 CANDELARIO; SANTANA; J.
15 SALINAS; S. ROBERTS,

16 Defendants.

Case No.: 3:20-cv-00324-WQH-AHG

ORDER

17 HAYES, Judge:

18 The matter before the Court is the Motion for a Preliminary Injunction filed by
19 Plaintiff Juan Laya Salas. (ECF No. 21).

20 **PROCEDURAL BACKGROUND**

21 On February 20, 2020, Plaintiff Juan Laya Salas, a state prisoner proceeding *pro se*,
22 filed a civil rights action pursuant to 42 U.S.C. § 1983. (ECF. No. 1). On the same day,
23 Plaintiff filed a Motion for Leave to Proceed in Forma Pauperis. (ECF. No. 2). On March
24 18, 2020, Plaintiff filed a Supplemental Compliant and Exhibits. (ECF No. 7). On April
25 7, 2020, the Court issued an Order granting Plaintiff’s Motion to Proceed in Forma
26 Pauperis and dismissing “all claims against Defendants Santana, Salinas, and Roberts for
27 failing to state a claim pursuant to 28 U.S.C. § 1915(e)(2) and §1915A(b)”. (ECF No. 8 at
28 10). The Court further stated, in relevant part,

1 Office (R&R) has a policy and or custom of an unconstitutional method without any
2 memorandum been sealed from the administration to do their duty the way they did.” *Id.*
3 at 2. Plaintiff asserts that “they open the store coming items box in front of the prisoner
4 and ordered him to put inside of a laundry bag all coming items without let check out first
5 him if anything been charged on the store list is really at there.” *Id.* Plaintiff asserts that
6 “as a result after a while, when the prisoner found out that some items that has been charged
7 in the store list is missed in the laundry bag it would come too late to complaint about it
8 they always would say ‘you signed it you got it and get off my face!’” *Id.* Plaintiff
9 contends that “when a particular targeted prisoner is on the scope they used promptly this
10 unusual and illegal tactic as to harass him but if in any case the targeted prisoner signed a
11 refusal then, later on they just would be put it back in the box all missed items retaped it
12 and returned to the store.” *Id.* Plaintiff asserts that “in the present action, there were not
13 any verifying refusal signature but there were the missed charged items in the laundry bag
14 of Plaintiff’s of \$16.70 which is appealing right now through via of A (CDCR 602).” *Id.*

15 Plaintiff “is asking the Court for an order to stop all type of harassmt and for a
16 short period of time until the exhaust of administrative remedies available has been done
17 and to invoke injunction due process reprisals for been exercising a complaint of the case
18 no, 3:20-cv-0324-WQH-AHG.” *Id.* at 2-3. Plaintiff “is needing of an order of harassmt
19 protection while the Court is considering this complaint docket number above, the
20 racketing acts explained also above, whether Plaintiff’s has it suffer injury once is likely
21 going to suffering it again soon or twice and much more worse off everytime he gets store
22 pockets because he would be exposed to it and to so many type of harassments that will be
23 in their hands” *Id.* at 3.

24 **DISCUSSION**

25 Procedurally, a federal district court may issue emergency injunctive relief only if it
26 has personal jurisdiction over the parties and subject matter jurisdiction over the lawsuit.
27 *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999) (noting
28 that one “becomes a party officially, and is required to take action in that capacity, only

1 upon service of summons or other authority-asserting measure stating the time within
2 which the party served must appear to defend.”). Federal Rule of Civil Procedure 65(d)(2)
3 states that an injunction “binds only the following who receive actual notice of it by
4 personal service or otherwise:” “the parties;” “the parties’ officers, agents, servants,
5 employees, and attorneys; and” “other persons who are in active concert or participation
6 with anyone described in Rule 65(d)(2)(A) or (B).” Fed. R. Civ. P. 65(d)(2)(A)-(C). The
7 court may not attempt to determine the rights of persons not before it. *See, e.g., Hitchman*
8 *Coal & Coke Co. v. Mitchell*, 245 U.S. 229, 234-35 (1916) (“It also was erroneous to
9 include personal relief by injunction against certain named parties who . . . were not served
10 with process and did not appear, they being included upon the ground that they were ‘before
11 the court by representation through service having been had upon their said predecessors
12 in office.’”); *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“The district court
13 must, therefore, tailor the injunction to affect only those persons over which it has power.”).

14 Substantively, “[a] plaintiff seeking a preliminary injunction must establish that he
15 is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence
16 of preliminary relief, that the balance of equities tips in his favor, and that an injunction is
17 in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The
18 Court of Appeals has “also articulated an alternate formulation of the *Winter* test, under
19 which serious questions going to the merits and a balance of hardships that tips sharply
20 towards the plaintiff can support issuance of a preliminary injunction, so long as the
21 plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is
22 in the public interest.” *Farris v. Seabrook*, 677 F.3d 858, 864 (9th Cir. 2012). “[A]
23 preliminary injunction is an extraordinary and drastic remedy, one that should not be
24 granted unless the movant, *by a clear showing*, carries the burden of persuasion.” *Mazurek*
25 *v. Armstrong*, 520 U.S. 968, 972 (1997).

26 In this case, no proof of service has been filed as to Plaintiff’s Complaint (ECF No.
27 1), Plaintiff’s Supplemental Complaint (ECF No. 7), and the summons upon Defendant
28 Candelario. Defendant Candelario, the only remaining defendant, has no actual notice of

1 Plaintiff's Complaints (ECF Nos. 1, 7) or his Motion for a Preliminary Injunction (ECF
2 No. 21). Therefore, the Court cannot grant Plaintiff's request for injunctive relief because
3 it has no personal jurisdiction over any Defendant at this time. *See Murphy Bros., Inc.*,
4 526 U.S. at 350; Fed. R. Civ. P. 65(d)(2). A district court has no authority to grant relief
5 in the form of a temporary restraining order or permanent injunction where it has no
6 jurisdiction over the parties. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 584 (1999)
7 (alteration in original) ("Personal jurisdiction, too, is an essential element of the jurisdiction
8 of a district ... court, without which the court is powerless to proceed to an adjudication.").

9 **CONCLUSION**

10 IT IS HEREBY ORDERED that the Motion for a Preliminary Injunction filed by
11 Plaintiff Juan Laya Salas (ECF No. 21) is DENIED.

12 Dated: October 13, 2020

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14 Hon. William Q. Hayes
15 United States District Court
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