

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT DARWYN WHEELER,

Plaintiff,

ORDER
03-C-576-C

v.

RON KOLLMAN,

Defendant.

In a separate order entered today, I have granted plaintiff leave to proceed in forma pauperis in this action against defendant Kollman on a claim that Kollman used excessive force against plaintiff when he struck plaintiff in the stomach. I denied plaintiff leave to proceed in forma pauperis on the remainder of his claims.

This order addresses a letter plaintiff filed on November 3, 2003, in which he states that he has been cleared for transfer to the Wisconsin Secure Program Facility in retaliation for his having filed this lawsuit. He asks for an order preventing his transfer. Subsequently, plaintiff advised the court that he has been transferred.

Ordinarily, when a plaintiff wants the court to issue an order enjoining the defendants in a lawsuit from taking a particular action before the lawsuit can be fully resolved, the party

files a motion for a preliminary injunction. Therefore, I construe plaintiff's November 3 filing as a motion for a preliminary injunction. For several reasons, plaintiff's motion for preliminary injunction must be denied.

First, plaintiff does not suggest that defendant Kollman, the only defendant remaining in this lawsuit, arranged his transfer or has any authority to direct plaintiff's return to his former place of incarceration. Therefore, plaintiff cannot benefit from any order this court might issue directed at Kollman on the matter of plaintiff's transfer.

Second, the relief plaintiff wants, an order preventing his transfer, became moot upon plaintiff's transfer.

Third, even if plaintiff's request for preliminary injunctive relief was not moot and could be directed at defendant Kollman, I would not allow plaintiff to raise his retaliation claim in this lawsuit. In situations in which a plaintiff alleges that the defendant has retaliated against him for initiating a lawsuit, it is the policy of this court to require the claim to be presented in a lawsuit separate from the one which is alleged to have provoked the retaliation. This is to avoid the complication of issues that can result from an accumulation of claims in one action. Therefore, for all of these reasons, plaintiff's motion for a preliminary injunction will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for a preliminary injunction enjoining his transfer to the Wisconsin Secure Program Facility is DENIED.

Entered this 14th day of November, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge