

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

KEIFVIN MALONE,

Plaintiff,

v.

JOHN CLARK,

Defendant.

ORDER

04-C-229-C

Plaintiff Keifvin Malone is an inmate who was confined at the Gordon Correctional Center in Gordon, Wisconsin, at the time of the incidents giving rise to this cause of action. In an order dated May 25, 2004, I granted him leave to proceed on his First Amendment retaliation claim, which is based on his allegations that defendant John Clark, the superintendent at the Gordon facility, issued him conduct report in retaliation for complaining to other prison officials regarding his concern that he would be the subject of retaliation. As a consequence of his conduct report, plaintiff was given a higher security classification. Now plaintiff brings a motion for preliminary injunction pursuant to Fed. R. Civ. P. 65(a), seeking expungement of this conduct report from his personnel file, presumably so that he can be reclassified at a lower security level.

The standard applied to determine whether plaintiff is entitled to preliminary injunctive relief is well established.

A district court must consider four factors in deciding whether a preliminary injunction should be granted. These factors are: 1) whether the plaintiff has a reasonable likelihood of success on the merits; 2) whether the plaintiff will have an adequate remedy at law or will be irreparably harmed if the injunction does not issue; 3) whether the threatened injury to the plaintiff outweighs the threatened harm an injunction may inflict on defendant; and 4) whether the granting of a preliminary injunction will disserve the public interest.

Pelfresne v. Village of Williams Bay, 865 F.2d 877, 883 (7th Cir. 1989). At the threshold, a plaintiff must show some likelihood of success on the merits and the likelihood that irreparable harm will result if the requested relief is denied. If plaintiff makes both showings, the court then moves on to balance the relative harms and public interest, considering all four factors under a “sliding scale” approach. See In re Forty-Eight Insulations, Inc., 115 F.3d 1294, 1300 (7th Cir. 1997).

In support of his motion for a preliminary injunction, plaintiff has filed only a brief and an affidavit. He has not followed the procedures that this court requires of persons seeking emergency injunctive relief, which are described in a document titled Procedure To Be Followed On Motions For Injunctive Relief. A copy of the procedures is included with this order. Plaintiff should pay particular attention to those parts of the procedure that require him to submit proposed findings of fact in support of his motion and to refer to admissible evidence in the record to support each factual proposition.

Plaintiff will have until July 19, 2004 to supplement his motion with proposed findings of fact and any additional evidentiary materials necessary to support them. Defendant will have until August 8, 2004 to respond and plaintiff may reply by August 20, 2004.

Entered this 12th day of July, 2004.

BY THE COURT:
BARBARA B. CRABB
District Judge