

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

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LUIS A. RAMIREZ,

Plaintiff,

v.

GARY R. McCAUGHTRY, MATTHEW  
FRANK, CURT JANSEN, STEVEN  
SCHUELER, MARC CLEMENTS and  
STEVEN CASPERSON,

Defendants.  
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ORDER

04-C-335-C

Plaintiff Luis Ramirez has filed a “Notice of Motion/Motion for Restraining Order,” which I construe as a motion for a preliminary injunction. In support of his motion, plaintiff contends that a correctional officer Jamie Feucht has threatened to “tear up [his] room” and search his cell if plaintiff goes to “legal recreation.” (I presume “legal recreation” is time that plaintiff may use either to go to the recreation area or the law library.) Plaintiff contends that he told defendant Schueler about Feucht’s threats and Schueler has not investigated plaintiff’s complaint. Plaintiff asks that this court issue an order prohibiting Officer Feucht from working on plaintiff’s unit during the pendency of this action and that

this court intervene “if any of Feucht’s friends including [defendant] Schueler . . . tries to retaliate.”

Plaintiff's claim of retaliation cannot be brought in the context of this lawsuit. In situations in which a plaintiff alleges that state officials have 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 which can result from an accumulation of claims in one action.

The court recognizes an exception to this policy only where it appears that the alleged retaliation would directly, physically impair the plaintiff's ability to prosecute his lawsuit. In this case, plaintiff suggests that he is being threatened with a shake down of his cell if he goes to law library, but he does not suggest how his inability to go to law library will prevent him from prosecuting the one remaining claim in this lawsuit, that is, that defendants’ refusal to permit him to have newspapers, magazines, personal books and photographs while he is in segregation violates his First Amendment rights. The law governing this claim has been explained to plaintiff twice, once in this court’s August 23, 2004, order granting plaintiff leave to proceed in forma pauperis and again in this court’s order of April 20, 2005, granting in part and denying in part defendants’ motion for summary judgment. At this stage of the proceedings, plaintiff should be gathering evidence to show that defendants’

policy serves no legitimate penological interest, if such evidence exists. There is no reason to believe that plaintiff will uncover evidence of any sort in the prison's law library.

ORDER

IT IS ORDERED that plaintiff's "Notice of Motion/Motion for Restraining Order, construed as a motion for a preliminary injunction, is DENIED.

Entered this 13th day of May, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge