

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

KURTIS L. KING,

Plaintiff,

v.

MATTHEW FRANK in his official capacity;
GARY R. McCAUGHTRY, in his official
and individual capacities;
CURTIS JANSSEN, in his official
and individual capacities;
STEVEN SCHUELER, in his official
and individual capacities;
DOES 1-100, Health and Segregation
Complex staff, and both security
and clinical services staff in their official
and individual capacities,

Defendants.

ORDER

04-C-338-C

Plaintiff Kurtis King is proceeding in this action on his claims that

1) Defendants Matthew Frank, Gary McCaughtry and Steven Schueler eliminated or reduced plaintiff's telephone privileges, in violation of his right of free speech and intimate association;

2) Defendants Frank, McCaughtry and Schueler restricted the publications that he

could receive, in violation of plaintiff's right of free speech;

3) Defendants Frank, McCaughtry, Curtis Janssen and Schueler denied plaintiff contact visitation and limited his video visitation, in violation of his right of intimate association;

4) Defendants Frank, McCaughtry, Janssen and Schueler kept plaintiff's cell illuminated 24 hours a day, in violation of plaintiff's right to be free from cruel and unusual punishment;

5) Defendants Frank, McCaughtry, Janssen and Schueler failed to provide plaintiff with adequate mental health care, in violation of plaintiff's right to be free from cruel and unusual punishment;

6) A yet to be named defendant or defendants denied plaintiff his prescribed medication, in violation of his right to be free from cruel and unusual punishment; and

7) A yet to be named defendant refused to come to plaintiff's aid while he was suffering symptoms as a result of not receiving medication, in violation of his right to be free from cruel and unusual punishment.

Now plaintiff has filed a motion for a preliminary injunction, enjoining the defendants from housing him in Wisconsin Correctional Institution's "Health and Segregation Complex," where the conditions allegedly violate plaintiff's constitutional rights.

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 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).

This court requires that a party seeking emergency injunctive relief follow specific procedures for obtaining such relief. Those procedures are described in a document titled Procedure To Be Followed On Motions For Injunctive Relief, a copy of which 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 point to admissible evidence in the record to support each factual proposition.

In support of his motion for a preliminary injunction, plaintiff has filed only a brief.

Attached to the brief are copies of documents that are not authenticated, that is, no one has said under oath that they are what they seem to be. Without such a statement, they are not admissible as evidence.

To obtain a preliminary injunction, a moving party must meet an exacting standard. See Abbott Labs. v. Mead Johnson & Co., 971 F.2d 6, 11 (7th Cir. 1992). Plaintiff has not met that standard. He has provided no evidence to show that he is likely to succeed on his claims or that he will suffer irreparable harm if an injunction is not granted. Nor has he put in evidence to prove that he will suffer more harm if the injunction is not granted. Because plaintiff has not followed the procedures for preliminary injunctive relief and has not made the necessary showing that he is entitled to such relief, his motion will be denied without prejudice.

One other matter. The motion and brief plaintiff has submitted is single-spaced and printed in a font so tiny it cannot be read without significant eye strain. Plaintiff will have to enlarge the print he uses to at least the size of the print on this page if he wishes his materials to receive serious consideration.

ORDER

IT IS ORDERED that plaintiff's motion for a preliminary injunction is DENIED without prejudice.

Entered this 1st day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge