

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

NATHAN J. GAUSTAD,

Plaintiff,

v.

ORDER

JODINE DEPPISCH and MEL PULVER,

06-C-501-S

Defendants.

Plaintiff seeks a temporary restraining order preventing defendants from disposing of the white supremacist literature seized as contraband and to release him from segregation. This motion has been fully briefed and is ready for decision.

To prevail on a motion for a preliminary injunction plaintiff must establish: 1) that he has no adequate remedy at law; 2) that he will suffer irreparable harm if a preliminary injunction is not issued; 3) that the harm he will suffer if the order is not granted would be greater than the harm defendants will suffer if the order is granted; 4) that he has a reasonable likelihood of success on the merits; and 5) that the injunction will not harm the public interest. Brunswick Corp. v. Jones, 784 F. 2d 271, 273-64 (7th Cir. 1986).

Since plaintiff is no longer incarcerated at the Fox Lake Correctional Institution where the defendants are employed he will

suffer no irreparable harm if the preliminary injunction is not issued. Further, he has been released from segregation status and the literature has been destroyed. Accordingly, plaintiff's motion for a preliminary injunction will be denied as moot.

ORDER

IT IS ORDERED that plaintiff's motion for a preliminary injunction is DENIED.

Entered this 1st day of December, 2006.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge