

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

STEPHEN WENDELL JONES,

Plaintiff,

v.

SECRETARY M. FRANK, WDOC,
in his official capacity;
WARDEN R. SCHNEITER, WSPF;
G. BOUGHTON, a Security Director;
B. KOOL, a Unit Manager; and
P. HUIBREGTSE, Under Warden,

Defendants.

ORDER

07-C-141-C

On April 19, 2007, I granted plaintiff Stephen Wendell Jones, leave to proceed in forma pauperis under the imminent danger exception to 28 U.S.C. § 1915(g) on his claim that defendants are violating his Eighth Amendment right to personal safety by forcing him to congregate with other prisoners who wish to harm him, including gang members and prisoners on whom he has “snitched.” In that order and earlier, in an order dated March 12, 2007, I noted that plaintiff had styled his complaint as a motion for a preliminary injunction. I told him in both orders that this court requires that a party seeking

emergency injunctive relief follow specific procedures for obtaining such relief and that the court will not consider a motion for a preliminary injunction unless these procedures are followed. I sent plaintiff a document titled Procedure To Be Followed On Motions For Injunctive Relief, which explains what plaintiff must do to file a motion for a preliminary injunction.

Now, however, plaintiff has filed a document titled “Petition for an Order to Show Actual Cause and Request for Emergency Injunctive Relief.” I construe this document as a second motion for a preliminary injunction, which will be denied without prejudice because plaintiff still has not followed the proper procedure for presenting a motion for preliminary injunction. The motion itself consists of consecutively numbered pages starting with a proposed order for emergency relief (pps. 1-8), followed by several paragraphs of factual statements, some of which are made on personal knowledge and all of which are declared to be true under penalty of perjury (pps. 9-16). Following the factual statements, on pps. 17-19, plaintiff lists “exhibits” that are attached separately. 17-19), which is followed by what appear to be plaintiff’s general musings on his life in prison (pps. 20-24). Factual statements relating to the issue to be decided on a motion must be made on personal knowledge and declared to be true under penalty of perjury and should be presented in a document that is captioned in compliance with Fed. R. Civ. P. 10 and titled “Affidavit.” Exhibits must be authenticated, that is, they must be accompanied by the affidavit of someone who can aver

on personal knowledge that the document is a true and correct copy of the particular document it appears to be. Most important, none of plaintiff's evidence, that is, neither his affidavit nor his exhibits, may be considered by the court because plaintiff does not propose findings of fact in a separate document that cites to these items. The rules regarding proposed findings of fact are set out in the court's procedure to be followed on motions for injunctive relief at paragraphs II.A.2.a. and II.A.2.b. Plaintiff should read them carefully and follow them. In the absence of properly submitted evidence and proposed findings of fact, plaintiff's second motion for preliminary injunction must be denied, without prejudice.

ORDER

IT IS ORDERED that plaintiff's "Petition for an Order to Show Actual Cause and Request for Emergency Injunctive Relief," construed as plaintiff's second motion for a preliminary injunction, is DENIED without prejudice.

Entered this 10th day of May, 2007.

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