

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

JOHN D. TIGGS, JR.; a.k.a. A’KINBO
JIHAD-SURU HASHIM,

Plaintiff,

v.

GERALD A. BERGE,

Defendant.

ORDER

01-C-171-C

Plaintiff has filed two motions: a motion for a preliminary injunction and a “Request That This Court Order the Removal of Assistant Attorney General Andrea L. Baker From the Case at Bar and Strike Def’s Summary Judgment Motion for Obstruction of Justice and Intentional Interference with Plaintiff’s Right to Judicial Redress.”

As to plaintiff’s motion for a preliminary injunction, he alleges that he is indigent and that he has exceeded his annual legal loan limit. According to plaintiff, before he can send out legal correspondence, he must obtain approval from defendant, who is the warden at the Wisconsin Secure Program Facility (formerly known as Supermax Correctional Institution). Under Wis. Admin. Code § DOC 309.51, the legal loan limit may be exceeded “if the inmate demonstrates an extraordinary need, such as a court order requiring submission of specified documents.” Plaintiff alleges that although he has followed the prison’s procedures for obtaining an exception, defendant has nevertheless refused to

copy materials plaintiff intended to use to oppose defendant's motion for summary judgment.

Plaintiff's motion for a preliminary injunction will be denied. Even assuming that defendant has denied plaintiff's request to copy materials that would fall under the exception in Wis. Admin. Code § DOC 309.51 (and defendant disputes that he has), plaintiff has not shown that he is entitled to relief. Plaintiff does not have a constitutional right to unlimited photocopies, postage or other legal supplies. See Lewis v. Sullivan, 279 F.3d 526 (7th Cir. 2002). Defendant's failure to comply with a state regulation is not necessarily a violation for which plaintiff could obtain a remedy in federal court. Regardless, a party seeking a preliminary injunction must show that he or she will suffer irreparable harm if relief is not granted. Kellas v. Lane, 923 F.3d 492, 493 (7th Cir. 1990). Plaintiff alleges that he "has had various parts of the discovery obtained from defendant's attorney, interrogatories, declarations, admissions, and production of documents denied pursuant to copies used as exhibits in the pending summary judgment." Plt.'s Mot., dkt. #202, at 2, ¶7. However, he has failed to explain how any of these documents would have supported his position in opposing defendant's summary judgment motion or how he was otherwise harmed. Moreover, in plaintiff's proposed findings of fact, which have been filed with the court, it does not appear that plaintiff has relied on any documents that are not in the court's record. In addition, plaintiff alleges that defendant and Nancy Salmon, defendant's secretary and the person who processes legal loan extension requests, refused to make copies of an amended complaint that plaintiff wished to file with court in August 2002. However, plaintiff acknowledges that Salmon did ultimately make two copies of the complaint for plaintiff in late August and he does not dispute Salmon's averment that she rejected his initial requests because he asked for 25 copies of the complaint

without providing documentation showing that he needed 25 copies.

Plaintiff's amended complaint was never filed with court, although he alleges that he mailed it on August 27, 2002. He does not explain why, when it was not received, he did not attempt to send it again. Even assuming plaintiff did mail his complaint to the court but it never arrived, plaintiff has not been prejudiced. Plaintiff alleges that he wanted to amend his complaint in order to more fully explain his claims and to add 24 defendants. It is not necessary for plaintiff to explain his claims in detail in his complaint; that is the purpose of proposed findings of fact. Further, because defendant had already answered plaintiff's complaint, plaintiff could not amend it without leave of the court. See Fed. R. Civ. P. 15(a). It would not be appropriate to allow plaintiff to add 24 defendants at this late stage. See Samuels v. Walker, 871 F.2d 1346 (7th Cir. 1989) (stating that a district court does not abuse its discretion by denying a motion to amend when opposing party has already moved for summary judgment and would be prejudiced). In sum, because plaintiff has not demonstrated that he has been irreparably harmed, his motion for a preliminary injunction will be denied.

Plaintiff's remaining motions are without merit and will be denied as well. Plaintiff has made no showing that either defendant or defendant's counsel has prevented him from prosecuting this case or that the sanctions he proposes are appropriate.

ORDER

IT IS ORDERED that plaintiff's motions for a preliminary injunction, to remove counsel for defendant from the case and to strike defendant's summary judgment motion are DENIED.

Entered this 4th day of November, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge