

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

MICHAEL D. HARRIS,

Plaintiff,

v.

JOHN McKENNA, JEAN YOUNG
and BARBARA SUTTON,

Defendants.

ORDER

04-C-501-C

On September 7, 2004, I allowed plaintiff to proceed in this action on his claim that his parole agent, defendant John McKenna, conspired with defendant Young to impose parole conditions they knew plaintiff would violate, simply because plaintiff is black. In addition, I granted plaintiff leave to proceed against all of the defendants on a claim that each violated his right to equal protection under the laws of the United States by imposing parole conditions on plaintiff that they would not have imposed on a parolee who is white. Presently before the court is plaintiff's "Motion for Preliminary Injunction," in which he asks that defendant McKenna be enjoined from "handling plaintiff's case" or supervising him on parole when plaintiff is released in late February of 2005. The motion will be denied.

First, plaintiff has not submitted evidentiary support for his motion and proposed findings of fact sufficient to establish the elements necessary to obtain a preliminary injunction. (A copy of the court's rules governing motions for preliminary injunctions is attached to this order.) Second, it appears that plaintiff is speculating that defendant McKenna will treat him harshly in retaliation for his having filed this lawsuit against him. If this is plaintiff's claim, it is not properly raised on a motion for a preliminary injunction in this case.

In situations in which a plaintiff has proof that a defendant has or intends to retaliate 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. Before he files a separate lawsuit against defendant McKenna, plaintiff should be aware that even if he were to obtain evidence that McKenna intends to take certain actions against him in retaliation for filing this lawsuit, it is not likely that I would grant injunctive relief beyond enjoining McKenna from taking specific actions that plaintiff had shown were likely to be found unconstitutional. I would not order McKenna's removal as plaintiff's parole officer, because such a ruling would wreak havoc with the Department of Corrections' obligation to supervise its parolees responsibly and grant the parolees the power to manipulate the assignment of officers through the simple act

of filing a lawsuit.

ORDER

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

Entered this 23rd day of November, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge