

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

Plaintiff has filed a third motion for a preliminary injunction on his claim that defendants are violating his Eighth Amendment rights by housing him near other prisoners who are likely to harm him. I rejected the first two motions because plaintiff had failed to comply with this court's Procedure To Be Followed On Motions For Injunctive Relief, most notably the requirement to submit proposed findings of fact.

Plaintiff has not accompanied his third motion with proposed findings of fact. Instead, he asks the court to consider as proposed findings of fact pages 9-24 of his previous

motion for a preliminary injunction, dkt. #6. Although plaintiff did not identify this part of his motion as proposed findings of fact, that portion consists of factual propositions that are sometimes followed by citations to the record. However, even if I considered these factual propositions, I could not grant plaintiff's motion because it would still contain a number of deficiencies, both procedural and substantive.

Procedurally, many of the factual propositions do not comply with this court's rules because they contain no citation to the record (in violation of Procedure II.A.2.b) or they cite the complaint only, which I may not consider as evidence because it is not sworn. Sparing v. Village of Olympia Fields, 266 F.3d 684, 692 (7th Cir. 2001). In another instance, plaintiff proposes no facts but simply asks the court to review all the evidence in the record, but the court's rule on this issue is clear: "The court does not consider that it is under any obligation to search the record for factual matters that might support either the grant or denial of the motion. It is the duty of the parties to bring to the court's attention all factual and legal matters material to the resolution of the issues in dispute."

The remaining factual propositions fail on the merits because they do not demonstrate that plaintiff has any likelihood of success, which is a necessary showing for any preliminary injunction. Planned Parenthood v. Doyle, 162 F.3d 463, 473 (7th Cir. 1998); Abbott Laboratories v. Mead Johnson & Co., 971 F.2d 6, 11-12 (7th Cir. 1992). Although it is clear from the many grievances and letters plaintiff has written that he has a genuine

belief that he is being subjected to a substantial risk of serious harm, unfortunately for plaintiff that is not enough to prevail. He must come forward with objective evidence showing that he is actually at risk.

The evidence plaintiff cites does not show that he is currently in danger. A number of plaintiff's propositions relate to events that occurred at a previous institution and plaintiff does not explain how those events suggest that he still faces a risk of harm. His other allegations are simply too vague to suggest that he is entitled to preliminary injunctive relief.

For example, plaintiff lists a number of prisoners he believes pose a danger to him, but he adduces no evidence that would support a belief that those prisoners are dangerous or even that they have the ability to harm plaintiff if they wanted to do so. Dkt. #6, at 11-12, ¶8. The only specific incident plaintiff identifies is an attempted assault by another prisoner in January of 2007. But plaintiff provides no indication that he is housed near that prisoner, required to congregate with him or otherwise vulnerable to a second attack by that prisoner or anyone else.

Because plaintiff has not shown any likelihood of success on the merits of his claim,

his motion for a preliminary injunction is DENIED.

Entered this 1st day of June, 2007.

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