

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

OSCAR GARNER,

Plaintiff,

v.

PAUL SUMNIGHT, BELINDA SCHRUBBE,
CYNTHIA THORPE and MARY GORSKE,

Defendants.

ORDER

11-cv-829-slc

Plaintiff Oscar Garner is proceeding in this case on his claims that defendants violated his Eighth Amendment and state medical negligence law by failing to provide him with adequate medical treatment and a special diet for lactose intolerance and irritable bowel syndrome. Now plaintiff has filed a motion for a preliminary injunction in which he seeks an injunction during the pendency of this case requiring defendants to provide him with a non-dairy food tray or snack bag containing sufficient calories to meet the required recommended nutritional intake. I cannot consider plaintiff's motion for preliminary injunctive relief at this time because his submissions do not comply with this court's procedures for such motions, but I will give him another chance to submit materials in support of his motion.

The standard applied to determine whether plaintiff is entitled to preliminary injunctive relief is well established.

A district court must consider four factors in deciding whether a preliminary injunction should be granted. These factors are: 1) whether the plaintiff has a reasonable likelihood of success on the merits; 2) whether the plaintiff will have an adequate remedy at law or will be irreparably harmed if the injunction does not issue; 3) whether the threatened injury to the plaintiff outweighs the threatened harm an injunction may inflict on defendant; and 4) whether the granting of a preliminary injunction will disserve the public interest.

Pelfresne v. Village of Williams Bay, 865 F.2d 877, 883 (7th Cir. 1989).

At the threshold, a plaintiff must show some likelihood of success on the merits and that irreparable harm will result if the requested relief is denied. If plaintiff makes both showings, the court then moves on to balance the relative harms and public interest, considering all four factors under a "sliding scale" approach. See *In re Forty-Eight Insulations, Inc.*, 115 F.3d 1294, 1300 (7th Cir. 1997).

This court requires that a party seeking emergency injunctive relief follow specific procedures for obtaining such relief. Those procedures are described in a document titled *Procedure To Be Followed On Motions For Injunctive Relief*, a copy of which is included with this order. Under this court's procedures for obtaining a preliminary injunction, plaintiff must file a brief supporting his claim, proposed findings of fact and any evidence he has to support his request for relief. The proposed findings of fact should be set forth in individually numbered paragraphs, each of which is followed by a citation to the location of admissible evidence in the record that supports the factual proposition. In his proposed findings of fact, plaintiff should describe what happened to him as if he were telling a story to someone who does not know anything about the case, explaining what each defendant did and when they did it. Then plaintiff should explain what affidavit or other piece of evidence he has to support each finding, and he should attach each document to his findings. If plaintiff submits such a motion in this case, I will set a short deadline within which defendants will be required to respond to it. For now, however, I will deny plaintiff's motion for a preliminary injunction without prejudice because plaintiff failed to comply with this court's procedures.

ORDER

IT IS ORDERED that plaintiff Oscar Garner's motion for preliminary injunctive relief, dkt. 23, is DENIED without prejudice.

Entered this 11th day of June, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge