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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PATRICIA BLACKBURN; et al.,

Plaintiffs - Appellants,

v.

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES; et al.,

Defendants - Appellees.

No. 11-35755

D.C. No. 3:11-cv-05385-RBL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Argued and Submitted March 5, 2012
Seattle, Washington

Before: FERNANDEZ and PAEZ, Circuit Judges, and KOH, District Judge.**

Plaintiffs Patricia Blackburn and eight Psychiatric Security Attendants
employed at Western State Hospital (collectively, "Plaintiffs") appeal the district

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable Lucy H. Koh, District Judge for the U.S. District Court
for the Northern District of California, sitting by designation.

court's order denying their motion for a preliminary injunction seeking to enjoin Defendants State of Washington Department of Social and Health Services, Western State Hospital, the Chief Operating Officer of Western State Hospital, and the Director of the Center for Forensic Studies at Western State Hospital from enforcing any policy or practice that segregates or assigns hospital employees by race. We have jurisdiction under 28 U.S.C. § 1292(a)(1), and we affirm.

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). We will reverse a district court's denial of a preliminary injunction only when it has abused its discretion. *M.R. v. Dreyfus*, 663 F.3d 1100, 1107 (9th Cir. 2011).

Although we express no view on the merits of the complaint, we conclude that the district court did not abuse its discretion in denying Plaintiffs' motion for a preliminary injunction. The district court identified the correct legal standard and its factual findings were not “illogical, implausible, or without support in inferences that may be drawn from the facts in the record.” *Id.* (quoting *United States v. Hinkson*, 585 F.3d 1247, 1263 (9th Cir. 2009) (en banc)). In light of the

competing declarations, the district court did not clearly err in finding that no discriminatory staffing policy currently exists at Western State Hospital.

Because the district court properly concluded that Plaintiffs failed to demonstrate a likelihood of irreparable harm where the record does not clearly reflect an ongoing discriminatory staffing policy, *Winter*, 555 U.S. at 22, we do not address the other factors required to obtain injunctive relief. Accordingly, we affirm the district court's denial of Plaintiffs' motion for a preliminary injunction.

AFFIRMED.