

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RODNEY ALVERSON, #132431,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 2:11-CV-299-TFM
)
)
KIM THOMAS, et al.,)
)
Defendants.)

MEMORANDUM OPINION

This case is before the court on a 42 U.S.C. § 1983 complaint filed by Rodney Alverson [“Alverson”], a state inmate currently confined at the Draper Correctional Facility, in which he challenges restrictions placed on out-going legal mail and procedures undertaken by the response team in confiscating property from inmates during shakedowns. The complaint contained a motion for preliminary injunction. *Court Doc. No. 1* at 13-14. In addition, on May 12, 2011 and May 18, 2011, Alverson filed motions for preliminary injunctive relief under Rule 65, *Federal Rules of Civil Procedure*, seeking relief from the challenged restrictions/procedures. *Court Doc. No. 11* and *Court Doc. No. 13*. The defendants filed a response, supported by relevant evidentiary materials, to these motions on June 20, 2011. *Court Doc. No. 19*. Upon thorough review of the documents filed by the parties, the court concludes the plaintiff’s motions for preliminary injunction are due to be denied.

The decision to grant or deny a preliminary injunction “is within the sound

discretion of the district court....” *Palmer v. Braun*, 287 F.3d 1325, 1329 (11th Cir. 2002).

This court may grant a preliminary injunction only if Alverson demonstrates each of the following prerequisites: (1) a substantial likelihood of success on the merits; (2) a substantial threat irreparable injury will occur absent issuance of the injunction; (3) the threatened injury outweighs the potential damage the requested injunction may cause the non-moving parties; and (4) the injunction would not be adverse to the public interest.

Palmer, 287 F.3d at 1329; *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 *Cate v. Oldham*, 707 F.2d 1176 (11th Cir. 1983); *Shatel Corp. v. Mao Ta Lumber and Yacht Corp.*, 697 F.2d 1352 (11th Cir. 1983). “In this Circuit, ‘[a] preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly established the ‘burden of persuasion’’ as to the four requisites.” *McDonald's*, 147 F.3d at 1306; *All Care Nursing Service, Inc. v. Bethesda Memorial Hospital, Inc.*, 887 F.2d 1535, 1537 (11th Cir. 1989) (a preliminary injunction is issued only when “drastic relief” is necessary); *Texas v. Seatrain Int'l, S.A.*, 518 F.2d 175, 179 (5th Cir. 1975) (grant of preliminary injunction “is the exception rather than the rule,” and movant must clearly carry the burden of persuasion). The moving party’s failure to demonstrate a “substantial likelihood of success on the merits” may defeat the party’s claim, regardless of the party’s ability to establish any of the other elements. *Church v. City of Huntsville*, 30 F.3d 1332, 1342 (11th Cir. 1994); see also *Siegel v. Lepore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (noting that “the absence of a substantial likelihood of irreparable injury would, standing alone, make

preliminary injunctive relief improper"). ““The chief function of a preliminary injunction is to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated.’ *Northeastern Fl. Chapter of Ass'n of Gen. Contractors of Am. v. City of Jacksonville, Fl.*, 896 F.2d 1283, 1284 (11th Cir.1990).” *Suntrust Bank v. Houghton Mifflin Co.*, 268 F.3d 1257, 1265 (11th Cir. 2001).

Turning to the first prerequisite for issuance of preliminary injunctive relief, the court finds that Alverson has failed to demonstrate a substantial likelihood of success on the merits of his claims. Alverson also fails to demonstrate a substantial threat that he will suffer the requisite irreparable injury absent issuance of a preliminary injunction. The third factor, balancing potential harm to the parties, weighs more heavily in favor of the defendants as issuance of the injunction would adversely impact the daily operation of the Draper Correctional Facility. Finally, the public interest element of the equation is a neutral factor at this juncture. Thus, Alverson has failed to meet his burden of demonstrating the existence of each prerequisite necessary to warrant issuance of a preliminary injunction and his motions are due to be denied.

A separate order will accompany this memorandum opinion.

Done this 21st day of June, 2011.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE