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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

WILFREDO A. GOLEZ,

Plaintiff, ٧.

JOHN E POTTER, POSTMASTER GENERAL U.S. POSTAL SERVICE.

Defendant.

Case No. 09cv965 BTM(WMc)

ORDER DENYING REQUEST FOR TEMPORARY RESTRAINING ORDER

On August 20, 2010, Plaintiff filed (1) a motion for leave of court to file a request for a temporary restraining order ("TRO") and (2) a request for a TRO.

The motion for leave of court to file the request for a TRO is **DENIED AS MOOT**. No leave of Court is required, and the request for a TRO has been filed and docketed.

In his request for a TRO, Plaintiff asks that the Court enjoin Defendant from "collecting, garnishing or offsetting from Plaintiff's financial accounts . . . to satisfy alleged Wage over payments." Plaintiff attaches documents showing that the Department of Treasury applied Plaintiff's 2009 tax refund in the amount of \$1,295.00 to a debt Plaintiff allegedly owes to an agency of the United States. Plaintiff indicates that the debt at issue is an alleged overpayment of wages in connection with a 14-day suspension. However, Plaintiff has not submitted any evidence in this regard. Nor has Plaintiff submitted evidence that the 14-day suspension was unjustified or in violation of his rights.

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Injunctive relief is an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief. Winter v. Natural Res. Def. Council, Inc., __ U.S. __, 129 S. Ct. 365, 375-76 (2008). A plaintiff seeking preliminary injunctive relief "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." Id.

Because Plaintiff has not presented evidence supporting his claim, Plaintiff has failed to establish that he is likely to succeed on the merits of his claim. Therefore, the Court **DENIES** Plaintiff's request for a TRO without prejudice. If Plaintiff can present evidence that he was unlawfully suspended and that Defendant is attempting to collect for overpayment of wages in connection with the suspension, Plaintiff may file a new request for a TRO accompanied by the relevant documents, affidavits, and/or other evidence.

IT IS SO ORDERED.

DATED: August 23, 2010

Honorable Barry Ted Moskowitz United States District Judge

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