

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00601-BNB

TIMOTHY HATTEN,

Plaintiff,

v.

R. ANDERT,
A. BARKER,
J.C. HOLLAND,
SARA REVELL,
BLAKE R. DAVIS,
D.J. HARMON,
J. CHAVEZ,
M. WACKER,
V. VISIL, and
B. EISCHEN,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
AUG 23 2010
GREGORY C. LANGHAM
CLERK

ORDER DENYING PRELIMINARY INJUNCTION

This matter is before the Court on the "Petition for Order of Protection," filed by Plaintiff, Timothy Hatten, *pro se* on June 2, 2010. Mr. Hatten is a prisoner in the custody of the United States Bureau of Prisons and is currently incarcerated at the United States Penitentiary in Lewisburg, Pennsylvania.

The Court must construe the motion liberally because Mr. Hatten is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110. For the reasons stated below, the motion will be construed as a motion for preliminary injunction pursuant to

Federal Rule of Civil Procedure 65(a) and will be denied.

In the motion, Mr. Hatten requests an “order of protection to prevent any and all contact, physical and non-physical actual and/or perceived, between himself” and the named Defendants “employed by the Federal Bureau of Prisons (BOP) at the United States Penitentiary Florence Colorado where the Plaintiff is currently housed.” Motion at 1. Mr. Hatten asserts the Defendants engaged in a conspiracy to violate his due process rights by “conducting bogus systematic . . . investigations, destroying evidence and preparing . . . erroneous, spurious and fraudulent allegations . . . in prison disciplinary reports” *Id.* at 3. He further asserts that he has been “the victim of assaults, torture and threats” by these Defendants. *Id.*

A party seeking a preliminary injunction must show a substantial likelihood of prevailing on the merits, that he will suffer irreparable injury unless the injunction issues, that the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party, and that the injunction, if issued, would not be adverse to the public interest. *See Lundgrin v. Claytor*, 619 F.2d 61, 63 (10th Cir. 1980). A preliminary injunction is an extraordinary remedy and “the primary goal of a preliminary injunction is to preserve the pre-trial status quo.” *RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1208 (10th Cir. 2009).

In the Motion for Preliminary Injunction, Mr. Hatten makes no attempt to satisfy any of the four factors required for a preliminary injunction to issue. *See Lundgrin*, 619 F.2d at 63. The Motion for Preliminary Injunction is generally vague, conclusory and devoid of supporting factual allegations. Moreover, the Court notes on July 29, 2010

Mr. Hatten filed a notice of change of address with the Court, indicating that he was recently transferred from the United States Penitentiary in Florence, Colorado to the United States Penitentiary in Lewisburg, Pennsylvania. Accordingly, to the extent that Plaintiff requests protection from Defendants employed at the United States Penitentiary in Florence, Colorado, his request is now moot due to his transfer. Mr. Hatten does not demonstrate a substantial likelihood of prevailing on the merits, that he will suffer irreparable injury if no preliminary injunction is issued, that his threatened injuries outweigh whatever damage the proposed injunction may cause the opposing party, or that a preliminary injunction would not be adverse to the public interest. Therefore, the motion for a preliminary injunction will be denied. Accordingly, it is

ORDERED that the "Petition for Order of Protection" that Plaintiff, Timothy Hatten, filed with the Court on June 2, 2010, is DENIED.

DATED at Denver, Colorado, this 23rd day of August, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge, for
ZITA LEESON WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-00601-BNB

Timothy Hatten
Reg No. 27993-004
USP – Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 8/20/10

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk