

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-00306-WJM-MEH

LEONARD LOVE,

Applicant,

v.

CHARLES A. DANIELS,

Respondent.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on April 23, 2012.

Before the Court is the Applicant's Motion for Emergency Injunction Preventing Transfer Pursuant to Rule 23(a) [filed April 17, 2012; docket #16]. The motion fails to meet the requirements of Fed. R. Civ. P. 65(b) and D.C. Colo. LCivR 65.1B and 65.1C; thus, the Court will construe the motion as a request for preliminary injunction pursuant to Fed. R. Civ. P. 65(a).

The Court will **deny** the motion **without prejudice** for the following reasons. First, the Applicant states as the basis for the motion compliance with Fed. R. App. P. 23(a), which provides in pertinent part, "[p]ending review of a *decision* in a habeas corpus proceeding commenced before a court, justice or judge of the United States for the *release of a prisoner*, the person having custody of the prisoner must not transfer custody to another ..." (emphasis added). Appellate Rule 23(a) does not govern proceedings in this Court; even if it did, however, it would not apply to the present circumstances where there has been no decision in this matter and the Applicant does not seek release through his § 2241 application.

Second, the Applicant fails to articulate how his request to enjoin a transfer from his current facility relates in any way to the request for relief sought in this case, as would be necessary for a determination as to whether Applicant can show a substantial likelihood of success on the merits. *See Schrier v. Univ. of Colo.*, 427 F.3d 1253, 1258 (10th Cir. 2005). According to his Amended Application, the Applicant seeks an order expunging charges from his disciplinary record, correcting his institutional record and removing the resulting sanctions. Docket #5 at 5. Applicant mentions nothing in the present motion indicating how an upcoming transfer relates to his claims or requests for relief in this case.