

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

JOSEPH HERRING,
Plaintiff,

vs.

Case No. 5:06cv85/RS/MD

DEPARTMENT OF CORRECTIONS,
Defendant.

ORDER

This cause is before the court upon plaintiff's filing a motion for interlocutory injunction and miscellaneous documents (doc. 1). Plaintiff has not filed an application for leave to proceed *in forma pauperis*. The court will not process plaintiff's case until he files either a motion for leave to proceed *in forma pauperis* on the proper court forms, or the \$350.00¹ filing fee.

Plaintiff's motion appears to request a preliminary injunction. The purpose of preliminary injunctive relief is to preserve the status quo between the parties and to prevent irreparable injury until the merits of the lawsuit itself can be reviewed. *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994); *All Care Nursing Service, Inc. v. Bethesda Memorial Hospital*, 887 F.2d 1535, 1537 (11th Cir. 1989); *United States v. State of Alabama*, 791 F.2d 1450, 1457 n.9 (11th Cir. 1986), *cert. denied*, 479 U.S. 1085, 107 S.Ct. 1287, 94 L.Ed.2d 144 (1987). This necessitates that the relief sought in the motion be closely related to the conduct complained of in the actual complaint. *Devose*, 42 F.3d at 471; *Penn v. San Juan Hosp.*, 528 F.2d 1181, 1185 (10th Cir. 1975). The allegations in the

¹ The filing fee in this court was increased to \$350.00 on April 9, 2006. Plaintiff's undated motion was filed by the court on April 10, 2006. Therefore, the new filing fee must apply in this case.

motion for injunctive relief indicate that plaintiff complains of constitutional violations that arise under 42 U.S.C. § 1983, to wit, retaliation by unidentified Department of Corrections Staff due to his exercise of his constitutional rights. He seeks temporary or preliminary relief, although he has not yet filed a civil rights complaint. Plaintiff will be required to file a proper complaint before the court considers the allegations raised in his motion for temporary injunctive relief.

Accordingly, it is ORDERED:

1. The clerk is directed to send plaintiff a section 1983 complaint form and a complete set of forms for filing an application to proceed *in forma pauperis*.
2. Plaintiff shall file a complaint using the court form.
3. Plaintiff shall either pay the \$350.00 filing fee or file a complete application to proceed *in forma pauperis* as instructed herein.
4. Plaintiff shall do the above within thirty (30) days from the date of the docketing of this order. Failure to do so will result in a recommendation that his motion be denied and this case be dismissed for failure to prosecute and to comply with an order of the court.

DONE AND ORDERED this 19th day of April, 2006.

/s/ Miles Davis

**MILES DAVIS
UNITED STATES MAGISTRATE JUDGE**