

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

STEVEN ANTHONY MITCHELL,

Plaintiff,

v.

CASE NO. 4:08-cv-00266-MP-WCS

WALTER A MCNEIL,

et al.,

Defendants.

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**ORDER**

This matter is before the Court on Doc. 79, the Report and Recommendation of the Magistrate Judge, which recommends denying Plaintiff's motion at Doc. 75 for a preliminary injunction. The Plaintiff has filed objections, Doc. 92, which the Court has reviewed. Plaintiff originally filed a motion for preliminary injunction, seeking an order which will require prison officials to provide him with "Jewish authentic kosher meals" consistent with his Seventh Day Adventist faith. Later, however, the Plaintiff filed, at Doc. 104, a motion to stay and to transfer, in which he states he "has no objection to sanctions dismissing the J.D.A. (Jewish Dietary Accommodation) Kosher Meal Claims permanently 'with prejudice.'" Since the preliminary injunction motion obviously deals with kosher meals, the Court denies the claim with prejudice for this reason. Additionally, to be abundantly clear, the Court also finds that the preliminary injunction should be denied with prejudice on its merits.

The Court agrees with the Magistrate Judge, however, that Plaintiff is not likely to succeed on the merits, given this Court's previous ruling in Linehan v. Crosby, et al., 4:06-cv-00225. In that case, the Court rejected an argument similar to Plaintiff's, stating:

Both the excessive cost, as well as administrative and logistic difficulties, of implementing a kosher meal plan in the Florida prison system are compelling state interests, and the current vegan and vegetarian diets are the least restrictive means of addressing this compelling interest.

Accordingly, it is hereby

**ORDERED AND ADJUDGED:**

1. The Report and Recommendation of the Magistrate Judge, Doc. 79, is adopted and incorporated herein, and the Motion for Preliminary Injunction, Doc. 75, is denied.
2. The Court will take the other pending Report and Recommendation (Doc. 105) under advisement once it is referred to the Court by the Clerk's office.

**DONE AND ORDERED** this 30th day of March, 2009

*s/Maurice M. Paul*

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Maurice M. Paul, Senior District Judge