

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WALTER V. RODENHURST, III,)	CIV. NO. 08-00396 SOM-LEK
# A0137543,)	
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S
)	MOTION FOR INJUNCTIVE RELIEF TO
vs.)	COMPEL CCA AND STATE DEFENDANTS
)	TO MODIFY THEIR POLICY AND
STATE OF HAWAII, KAY BAUMAN,)	PROCEDURES REGULATING HANDLING
M.D., KENNETH ZIENKIEWICZ,)	OF PRIVILEGED MAIL DURING THE
M.D., FRANK J. LOPEZ, CLAYTON)	PENDENCY OF THIS COMPLAINT
FRANK, WESLEY MUN, DORIS)	
ROBINSON, R.D., NOLAN UEHARA,)	
ERIC TANAKA, NATHALIE KODAMA,)	
DAVID SALDANA, M.D., CARMILLO)	
SANTIAGO, MARY TUMMENILLO,)	
JOHN IOANE, HOWARD KOMORI,)	
BURT SANTIAGO, JUNE TAVARES,)	
SHARI KIMOTO, DAREN SWENSON,)	
JODY BRADLEY, BEN GRIEGO, LEE)	
ANN ARCHULETA, V. VANTEL,)	
JOHN KEESLING, GIANG PHAN,)	
LANE BLAIR, ANASTACIO PEREZ,)	
PHYLLIS HANSEN, R.N., DIANNE)	
PIERSON, DIANE DUFFY, R.N.,)	
PATRICIA SELLS, R.N.,)	
MUHAMMED HALEEM, M.D., TODD)	
THOMAS, CORRECTIONS)	
CORPORATION OF AMERICA,)	
)	
Defendants.)	
)	

**ORDER DENYING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF
TO COMPEL CCA AND STATE DEFENDANTS TO MODIFY THEIR POLICY
AND PROCEDURES REGULATING HANDLING OF PRIVILEGED MAIL
DURING THE PENDENCY OF THIS COMPLAINT**

Pro se plaintiff Walter V. Rodenhurst, III, a Hawaii state prisoner incarcerated at the Saguaro Correctional Center ("SCC"), located in Eloy, Arizona, has filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983, alleging that Defendants failed to adequately address his various medical needs

and denied him access to the courts. (See Compl.) Before the court is Plaintiff's Motion for Injunctive Relief to Compel CCA and State Defendants to Modify Their Policy and Procedures Regulating Handling of Privileged Mail During the Pendency of this Complaint. For the following reasons, Plaintiff's Motion for Injunctive Relief is DENIED.

The Prison Litigation Reform Act amended 42 U.S.C. § 1997e to provide that "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). Although district courts at one time had discretion to permit a case to proceed without exhaustion, exhaustion in prisoner cases covered by § 1997e(a) is now mandatory. Woodford v. Ngo, 548 U.S. 81, 85 (2006).

Rodenhurst attempts to have the court intervene in an issue between himself and SCC regarding SCC's prisoner mail policies and procedures. The court declines to intervene at this time. Rodenhurst does not appear to have availed himself of SCC's administrative grievance process. Rodenhurst must exhaust that process before seeking judicial action.

In support of his Motion, Rodenhurst asserts that Defendants' prisoner mail policies and procedures violate his rights under Federal Rule of Civil Procedure 26. (Pl.'s Mot.

Inj. Relief at 2.) Rule 26 is the federal civil rule governing discovery. See Fed. R. Civ. P. 26. It does not give Rodenhurst any right to injunctive relief with respect to prison security issues. Nothing Rodenhurst submits suggests that Defendants are engaged in discovery in reviewing his mail, or that individuals involved in this litigation are aware of the content of the mail being opened for security purposes. Rule 26 does not permit Rodenhurst to come directly to the court regarding matters requiring administrative exhaustion.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, September 25, 2009.



/s/ Susan Oki Mollway
Susan Oki Mollway
Chief United States District Judge

Rodenhurst v. State of Hawaii, et al., Civ. No. 08-00396 SOM-LEK; ORDER DENYING PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF TO COMPEL CCA AND STATE DEFENDANTS TO MODIFY THEIR POLICY AND PROCEDURES REGULATING HANDLING OF PRIVILEGED MAIL DURING THE PENDENCY OF THIS COMPLAINT; PROSE ATTNYS/Non-Disp Orders/KAM/2009/Rodenhurst 08-396 SOM (deny injunct. mot.)