

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
2009 JUL 28 P 3:58

DALE R. MILLER (#479248)

VERSUS

CIVIL ACTION

BURL CAIN, ET AL

NUMBER 09-416-JJB-SCR

RULING

Pro se plaintiff, an inmate confined at Louisiana State Penitentiary, Angola, Louisiana, filed this action pursuant to 42 U.S.C. § 1983 against Warden Burl Cain, Maj. Chad Oubre and Sgt. McDowell. Plaintiff alleged that the defendants failed to protect him from attack by a fellow inmate. Specifically, the plaintiff alleged that on May 31, 2009, while he was working as a tier orderly at Camp J, an unescorted inmate entered the lobby, removed his restraints and attacked him with a knife.

Plaintiff also filed a motion for injunction seeking placement in federal custody or an order directing prison officials to transfer him to a private prison. Record document numbers 3 and 9.

In order to determine whether to issue a preliminary injunction the court must consider four factors:¹

1. the significance of the threat of irreparable harm to the plaintiff if the injunction is not granted;

¹ Wright and Miller, Federal Practice and Procedure: Civil, § 2948, et seq.

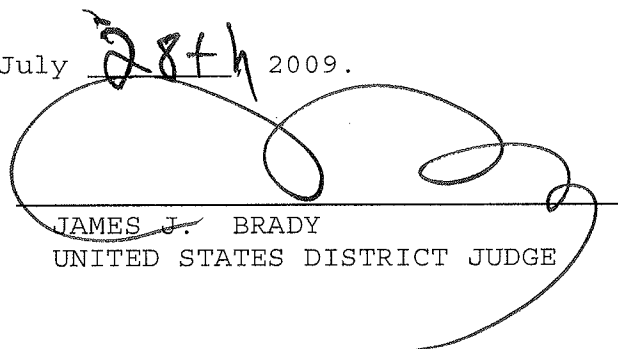
2. the state of balance between this harm and the injury that granting the injunction would inflict on the defendant;
3. the probability that the plaintiff will succeed on the merits; and
4. the public interest.

It is unlikely that the plaintiff will prevail on his claims against the defendants. Any harm which may come to the plaintiff is likely to be minor rather than irreparable and it can be compensated for monetarily should the plaintiff prevail in this action.

Finally, the public interest in the issuance or denial of a preliminary injunction is minimal or non-existent in this case.

The plaintiff has not shown the exceptional circumstances needed for issuance of a temporary restraining order of the sort the plaintiff seeks. Therefore, his request for a temporary restraining order is denied.

Baton Rouge, Louisiana, July 28th 2009.



JAMES J. BRADY
UNITED STATES DISTRICT JUDGE