

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SHANNON WILLIAMS,)	8:09CV282
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
JEFFREY NEWTON, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff’s Motion for Temporary Restraining Order. (Filing No. [15](#).) The standards set forth by [Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109 \(8th Cir. 1981\)](#), apply to Plaintiffs’ Motion. In *Dataphase*, the court, sitting *en banc*, clarified the factors district courts should consider when determining whether to grant a motion for preliminary injunctive relief:

(1) the threat of irreparable harm to the movant; (2) the state of balance between this harm and the injury that granting the injunction will inflict on other parties litigant; (3) the probability that movant will succeed on the merits; and (4) the public interest.

[Id. at 114](#). “No single factor in itself is dispositive; rather, each factor must be considered to determine whether the balance of equities weighs toward granting the injunction.” [United Indus. Corp. v. Clorox Co., 140 F.3d 1175, 1179 \(8th Cir. 1998\)](#). “At base, the question is whether the balance of equities so favors the movant that justice requires the court to intervene to preserve the status quo until the merits are determined. . . .” [Dataphase, 640 F.2d at 113](#).

Here, the court finds that the *Dataphase* factors do not favor Plaintiff to a degree sufficient to warrant issuance of preliminary injunctive relief. In balancing all of the factors, it is apparent that Plaintiff has not alleged, or submitted any evidence showing, that it is probable he will succeed on the merits of his claims. Plaintiff requests a temporary restraining order moving him to another facility

because he objects to the conditions of his administrative segregation. (Filing No. [15](#).) However, as the court has already informed Plaintiff, he has not “describe[d] any conditions which rise to the level of an “atypical and significant hardship” and simply being held in segregation for less than a year does not meet this standard. (Filing No. [7](#) at CM/ECF p. 5.) Indeed, the court already dismissed Plaintiff’s due process claims on this basis. In light of this, and in consideration of all of the factors, the court sees no reason to “intervene to preserve the status quo until the merits are determined” [Dataphase, 640 F.2d at 113](#).

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Temporary Restraining Order (filing no. [15](#)) is denied.
2. Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (filing no. [18](#)) is denied as moot because Plaintiff has already paid the full filing fee in this matter.
3. In accordance with the court’s previous Memorandum and Order, Plaintiff has until June 1, 2010, to complete service of process on the remaining Defendants.

DATED this 3rd day of May, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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