

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ALEJANDRO D. QUEVEDO-)
ANDRETTI,)

8:15CV31

Plaintiff,)

v.)

**MEMORANDUM
AND ORDER**

NEBRASKA DEPARTMENT OF)
HEALTH AND HUMAN)
SERVICES, TYLYNN BAUER,)
KRISTINE BOESIMMONS,)
STEPHEN O'NEILL, DARYL)
STEPHENSON, HOLLI FRYE,)
STEPHANIE BRIGHT, KAYLA)
HRABANEK, and DAVID)
MITCHELL,)

Defendants.)

This matter is before the court on Plaintiff's Motion for Leave to Proceed in Forma Pauperis ("IFP") (Filing No. [2](#)) and Motion for Temporary Restraining Order (Filing No. [3](#)). Plaintiff resides at the Norfolk Regional Center. For purposes of determining his IFP status, the court considers him a non-prisoner. Upon review of Plaintiff's motion, the court finds Plaintiff is financially eligible to proceed IFP in this matter.

Plaintiff's Motion for Temporary Restraining Order is very general. It asks solely that several of the Defendants be required to remain "150 feet of the Plaintiff at any and all given times, and from residing on the same housing unit as Plaintiff for a period of one year minimum." (Filing No. [3](#) at [CM/ECF p. 1.](#)) Plaintiff did not address the factors the district court should consider when determining whether to grant a motion for preliminary injunctive relief. See [Dataphase Sys., Inc. v. C.L. Sys., Inc.](#), [640 F.2d 109, 114 \(8th Cir.1981\)](#) ("[W]hether a preliminary injunction should

issue involves consideration of (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.”). Moreover, the court has carefully reviewed Plaintiff’s Complaint and finds that his allegations do not entitle him to preliminary injunctive relief. He made no showing at this time that he faces a threat of irreparable harm or that he is likely to succeed on the merits of his claims.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Proceed IFP (Filing No. [2](#)) is granted.
2. Plaintiff’s Motion for Temporary Restraining Order (Filing No. [3](#)) is denied without prejudice to reassertion.
3. Plaintiff is advised that the next step in his case will be for the court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

DATED this 26th day of January, 2015.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

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