

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOE E. HUDSON,)
Plaintiff,) 2:08-cv-0992-KJD-RJJ
vs.)
STATE OF NEVADA, *et al.*,) **ORDER**
Defendants.)
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ORDER

Plaintiff has submitted a civil rights complaint pursuant to 42 U.S.C. § 1983. On August 15, 2008, the Court entered an order denying plaintiff's motion to certify this case as a class action. (Docket # 9). Pending before the court is plaintiff's motion for a temporary restraining order.

The legal principles applicable to a request for preliminary injunctive relief are well established. To prevail, the moving party must show either "(1) a likelihood of success on the merits and the possibility of irreparable injury, or (2) the existence of serious questions going to the merits and the balance of hardships tipping in [the moving party's] favor." Oakland Tribune, Inc. v. Chronicle Publishing Company, Inc., 762 F.2d 1374, 1376 (9th Cir. 1985), quoting Apple Computer,

1 Inc. v. Formula International, Inc., 725 F.2d 521, 523 (9th Cir. 1984); see also Hartikka v. United
2 States, 754 F.2d 1516, 1518 (9th Cir. 1985). The two formulations represent two points on a sliding
3 scale with the focal point being the degree of irreparable injury shown. Oakland Tribune, 762 F.2d
4 at 1376. "Under either formulation of the test, plaintiff must demonstrate that there exists a
5 significant threat of irreparable injury." Id. In the absence of a significant showing of irreparability,
6 the court need not reach the issue of likelihood of success on the merits. Id.

7 In this case, Plaintiff seeks a temporary restraining order revamping the entire Nevada
8 Department of Corrections' policy and procedure in regard to placement or movement of inmates
9 between institutions. As stated above, the court has denied plaintiff's request to certify this case as a
10 class action. The question of irreparability therefore goes only to plaintiff himself, and plaintiff
11 speaks only in broad terms regarding prison policies and their impact on prisoners' Constitutional
12 rights. The court finds, therefore, that plaintiff has not made the requisite showing of a significant
13 threat of irreparable injury to himself.

14 **IT IS THEREFORE ORDERED** that plaintiff's motion for a temporary restraining
15 order is **DENIED** (Docket # 2).

16 DATED: February 27, 2009.



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18 UNITED STATES DISTRICT JUDGE

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