Festa v. NDOC Doc. 47

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ANTHONY FESTA,

Case No.: 2:17-cy-00850-APG-NJK

Plaintiff

Order Denying as Moot Motions for Temporary Restraining Order and Denving Motion for Default

v.

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[ECF Nos. 40, 44, 45]

NDOC, et al.,

Defendants

Plaintiff Anthony Festa filed a motion for temporary restraining order, asserting that he believes he is about to be transferred back to High Desert State Prison (HDSP) where, he alleges, 10 he is in danger from a correctional officer who previously threatened his life. ECF No. 40. He believes his transfer is imminent because he has been granted parole and prisoners who are to be 12 released in Las Vegas are first transferred to HDSP. *Id.* The defendants respond that they have 13 arranged for Festa to be housed at the Southern Desert Correctional Center (SDCC) pending his 14 release on parole. ECF No. 43. Festa states in a motion for default and in a second motion for a 15 temporary restraining order that there are officers at SDCC who know about his case at HDSP, 16 so he would still be in danger. ECF Nos. 44, 45. But there is no evidence that any other officers have threatened him. Festa's unsupported fears that unidentified officers might retaliate against 18 him is insufficient to warrant temporary injunctive relief. Consequently, I deny Festa's motions 19 for temporary restraining order as moot.

In Festa's second motion for a temporary restraining order, he alleges correctional officers Parks and Bennett denied him access to the courts. ECF No. 45 at 6. Those allegations are not a part of Festa's third amended complaint in this action, and Parks and Bennett are not

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defendants in this case. ECF No. 39. I therefore do not consider these allegations, nor do I grant 2 any relief related to them, to the extent Festa is seeking some form of relief at this time. IT IS THEREFORE ORDERED that plaintiff Anthony Festa's motions for temporary 4 restraining order (ECF Nos. 40, 45) are DENIED as moot. IT IS FURTHER ORDERED that plaintiff Anthony Festa's motion for default (ECF No. **44) is DENIED**. DATED this 7th day of December, 2018. UNITED STATES DISTRICT JUDGE