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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HUGO APARICIO,

Plaintiff,

v.

RENEE BAKER, et al.,

Defendants.

Case No. 3:13-cv-00677-MMD-WGC

ORDER

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, has submitted an application to proceed *in forma pauperis* (dkt. no.1) and an emergency motion requesting a preliminary injunction. A court may issue a temporary restraining order when the moving party provides specific facts showing that immediate and irreparable injury, loss, or damage will result before the adverse party's opposition to a motion for preliminary injunction can be heard. Fed. R. Civ. P. 65. Plaintiff complains about the medical treatment that he receives at the Ely State Prison. His allegations show that he is receiving medical care, just not to his satisfaction. The circumstances do not indicate a need to order relief before hearing a response from the defendants. The Court denies the motion.

Plaintiff has not submitted a complaint. A complaint is required to commence an action properly. Fed. R. Civ. P. 3. Plaintiff states that he has not submitted a complaint so that he can circumvent the exhaustion requirement of 42 U.S.C. § 1997e(a). However, the outcome of plaintiff's efforts would not be this Court granting relief, it would be this Court dismissing the action. The Court will give plaintiff the opportunity to submit a complaint.

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It is therefore ordered that the Clerk of the Court shall file the emergency motion requesting a preliminary injunction.

It is further ordered that the emergency motion requesting a preliminary injunction is denied.

It is further ordered that the Clerk shall send to plaintiff a civil rights complaint form with instructions. Plaintiff will have thirty (30) days from the date that this order is entered to submit a complaint. Failure to comply with this order will result in the dismissal of this action.

It is further ordered that plaintiff shall place the case number, 3:13-cv-00677-MMD-WGC, in the space provided on the complaint form.

DATED THIS 11th day of December 2013.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE