

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

Mary L. McKay,)	
)	
Plaintiff,)	ORDER
)	
v.)	
)	
Indian Health Service, and)	
Todd Bercier,)	Case No. 4:06-cv-003
)	
Defendants.)	

On January 24, 2006, the plaintiff, Mary McKay, filed a pleading entitled “Complaint, Motion for TRO and Declaratory Relief.” On January 25, 2006, this Court entered an order denying the Plaintiff’s request for a temporary restraining order. See Docket No. 4. On January 26, 2006, the Plaintiff again filed a “Motion for Declaratory and Injunctive Relief” with an accompanying brief. The Plaintiff reiterated her argument for injunctive relief in the form of a temporary restraining order.¹ Specifically, the Plaintiff seeks a temporary restraining order against the Defendants to prevent a five-day suspension beginning on January 30, 2006. The Government filed a response in opposition to the motion on January 27, 2006. See Docket No. 7.

The Court again finds that the Plaintiff has failed to meet her burden under Rule 65(b) of the Federal Rules of Civil Procedure. All of the factors outlined in Dataphase Systems, Inc., v. C.L. Sys. Inc., 640 F.2d 109, 114 (8th Cir. 1981) (*en banc*), weigh in favor of denying injunctive relief at this early stage of the case. Most significant, the Plaintiff has failed to show a threat of irreparable harm or a likelihood of success on the merits. The Government’s brief sheds additional light on the

¹Unlike before, the Office of the United States Attorney received a summons and a copy of the motion and complaint.

facts of this case and supports this Court's previous denial of a temporary restraining order. There is no new evidence that would warrant alteration of that previous finding. The "Plaintiff's Motion for Declaratory and Injunctive Relief" is **DENIED**. (Docket No. 5).

IT IS SO ORDERED.

Dated this 30th day of January, 2006.



Daniel L. Hovland, Chief Judge
United States District Court