

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

OTTO BERK, *et al.*,
Plaintiffs,

vs.

Civil Action 2:10-CV-1082
Judge Frost
Magistrate Judge King

ERNIE MOORE, DIRECTOR, *et al.*,
Defendants.

REPORT AND RECOMMENDATION

Plaintiffs, state prisoners housed at the Marion Correctional Institution ["MCI"], filed a motion for a temporary restraining order and preliminary injunction asking that defendants be prohibited from "harassing, threatening, chastising, punishing, or transferring, or retaliating in any way against the plaintiffs" Doc. No. 107, p.1. Plaintiffs base their request on the transfer of plaintiff Jeff Blair from MCI to the North Central Correctional Institution ["NCCI"]. *Id.* However, plaintiff Blair indicates that "I have no problem in sta[y]ing at NCCI. If it causes no problem with the court [sic]." *Id.* *Notice of Change of Address*, Doc. No. 109.

Under these circumstances, and because the plaintiff most directly impacted does not, apparently, intend to pursue the extraordinary relief requested in plaintiffs' motion, the Court concludes that the motion for interim injunctive relief should be denied.

It is therefore **RECOMMENDED** that plaintiffs' motion for a temporary restraining order and preliminary injunction, Doc. No. 107, be **DENIED**.

If any party seeks review by the District Judge of this *Report*

and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*.

See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge

December 30, 2011
Date