

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

WILMER KEITH BRECKENRIDGE

Plaintiff,

Civil No. 08-734-CL

v.

ORDER

HARVEY HARPIN, et al.,

Defendants.

AIKEN, District Judge.

Plaintiff now moves the court for a "temporary injunction" against the BOP's use of ion scan equipment at FCI Sheridan. (#53). For the reasons set forth below, plaintiff's motion is denied.

"The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held," and it is generally inappropriate for a federal court at the preliminary injunction stage to give a final judgment on the merits. University of Texas v. Camenisch, 451 U.S. 391, 395 (1981); Tanner Motor Livery, Ltd. V. Avis, Inc, 316 F.2d 804, 808 (9th Cir. 1983). See also,

Regents of University of California v. ABC, Inc., 747 F.2d 511, 514 (9th Cir. 1984) ("* * * the function of a preliminary injunction is to preserve the *status quo ad litem*.") Wright and Miller, Federal Practice and Procedure § 2947 (1973) ("* * * the most compelling reason in favor of entering a Rule 65(a) order is the need to prevent the judicial process from being rendered futile by defendant's actions or refusal to act").

In addition, a party seeking preliminary injunctive relief must demonstrate: (1) that he is likely to succeed on the merits; (2) that he is likely to suffer irreparable harm in the absence of injunctive relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. Winter v. NRDC, Inc., 129 S.Ct. 365, 374 (2008).

In this case, plaintiff has failed to establish any of these requirements. Plaintiff has no standing to assert claims on behalf of unidentified third parties and his First Amendment right of association claim has virtually no chance of success on the merits in the content of prison visitation.


Moreover, plaintiff has made no demonstration that he is likely to suffer irreparable harm if an injunction is not issued, and the balance of equities and public interest factors favor defendants.

Plaintiff's request for preliminary injunctive relief is denied.

Plaintiff's request to compel discovery is denied as moot pursuant to defendants' request for extension of time to respond to plaintiff's requests, Response to Motion (#53) p. 7, which is hereby allowed.

IT IS SO ORDERED

DATED this 17 day of December, 2009.



Ann Aiken
United State District Judge