

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

FRANK E. VOTH,
Plaintiff,

Case No. 2:14-cv-01855-AC

ORDER

v.

MARK NOOTH, et al.,
Defendants.

MOSMAN, Judge.

Plaintiff, an inmate at the Snake River Correctional Institution, brings this civil rights action pursuant to 42 U.S.C. § 1983. Currently before the Court are Plaintiff's Motion for Default Judgment (#33) and Motion for Injunctive Relief (#36).

I. Motion for Default Judgment

Plaintiff seeks entry default against the Defendants on the basis that Defendants did not file an Answer or other responsive pleading at the time Defendants filed their Waiver of Service with the Court, which was more than 90 days after the date Plaintiff's

Complaint was filed. The Notice of Lawsuit and Request for Waiver of Service of Summons (#13) issued by Magistrate Judge Acosta on January 28, 2015 provides as follows:

If you [the Defendants] comply with this request and return the waiver to the court, no summons will be served. The action will then proceed as if you had been served *on the date the waiver is filed*. You must file an answer or other responsive pleading within the time limits set forth in Fed. R. Civ. P. 12(a)(1)(A) or (a)(3).

Doc. #13 (emphasis added).

Defendants filed their Waiver of Service with the Court on April 21, 2015. Defendants filed their Answer on May 11, 2015, which was within the time provided in Fed. R. Civ. P. 12(a). Accordingly, the Court DENIES Plaintiff's Motion for Default Judgment.

II. Motion for Injunctive Relief

Plaintiff seeks entry of a preliminary injunctive relief in the form of an order enjoining Defendant Banner from "being allowed to inflict cruel and unusual punishment upon Plaintiff," enjoining all Defendants from denying Plaintiff meaningful and effective access to the courts, and enjoining Defendants Nooth and Peters from refusing to release Plaintiff from the Administrative Segregation Unit. This is Plaintiff's fourth request for preliminary injunction.

For the reasons set forth in the Court's orders denying Plaintiff's first three requests for preliminary injunction, the

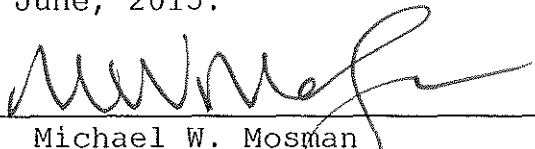
Court denies Plaintiff's fourth request. With respect to the access to the court and release from administrative segregation claims, the Court notes those claims are not at issue in Plaintiff's Complaint. With respect to the cruel and unusual punishment claim against Defendant Banner, the Court notes Plaintiff provides no evidence Defendant Banner has or will inflict cruel and unusual punishment against Plaintiff. Because Plaintiff has not demonstrated any likelihood of success on the claims upon which preliminary injunctive relief is sought, he is not entitled to such relief.

CONCLUSION

For these reasons, the Court DENIES Plaintiff's Motion for Default Judgment (#33) and Plaintiff's Motion for Preliminary Injunction (#36).

IT IS SO ORDERED.

DATED this 15 day of June, 2015.



Michael W. Mosman
United States District Judge