

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DENNIS MCKEITHAN,	)	
	)	
Plaintiff,	)	Civil Action No. 06-965
	)	
v.	)	Chief Judge Lancaster
	)	Magistrate Judge Bissoon
JEFFREY A. BEARD, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

Dennis McKeithan is a state prisoner currently incarcerated in the State Correctional Institution at Coal Township, Pennsylvania. Plaintiff alleges that he has been denied access to his legal materials by prison officials, and that this prevents him from responding to the Motion for Summary Judgment filed by Defendants Yarcgwer and Myers (Plaintiff's response is presently due November 18, 2009 (Doc. 176)). Plaintiff filed an Emergency Motion for Temporary Restraining Order or a Preliminary Injunction (Doc. 181) seeking an order directing Defendants to permit him access to his legal materials, and to permit him access to the prison's law library. Plaintiff also asks that this action be stayed until he is granted the relief he seeks.

Defendants responded to Plaintiff's motion by providing a misconduct report dated October 7, 2009, detailing Plaintiff's assault of two prison guards (Doc. 185-2, p. 2). Plaintiff was placed on a property restriction after the assault, requiring him to reduce the amount of property in his cell. Plaintiff was denied access to his legal materials for a few days, but only because he initially refused to inventory his property (*Id.*, p. 19). Defendants indicate that Plaintiff has since inventoried his property, and that he now has access to his legal materials, and

to the prison law library, all in accordance with Department of Corrections' policy. Therefore, Plaintiff's request for injunctive relief (Doc. 181) is moot.

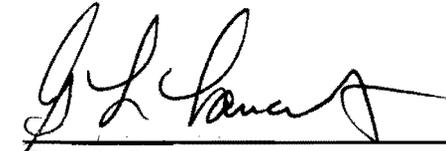
On November 6, 2009, Plaintiff filed another Motion for Preliminary Injunction, for Extension of Time, and for Notification of Transfer (Doc. 186) asserting that he is now being moved to another facility, and will be unable to respond to Defendants' Motion for Summary Judgment before November 18, 2009. Again, Plaintiff has not set forth a basis for preliminary injunctive relief. The only potential prejudice he could suffer in this case is the failure to timely file a response to Defendants' Motion for Summary Judgment. The Court will grant Plaintiff's request for an extension of time to respond to Defendants' Motion for Summary Judgment, which moots Plaintiff's request for injunctive relief.

AND NOW, this 9<sup>th</sup> day of November, 2009,

IT IS HEREBY ORDERED that Plaintiff's Emergency Motion for Temporary Restraining Order or a Preliminary Injunction (Doc. 181) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Extension of Time (Doc. 186) is GRANTED. Plaintiff's response to Defendants' Motion for Summary Judgment (Doc. 168) is due on or before December 18, 2009.

IT IS FURTHER ORDERED that Plaintiff's Motion for Preliminary Injunction (Doc. 186) is DENIED, and his Motion for Notification of Transfer (Doc. 186) is GRANTED, because has informed the Court of his transfer to a new institution.

  
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Gary L. Lancaster  
Chief United States District Judge

cc:

**DENNIS MCKEITHAN**

BB2253

SCI Mahanoy

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