

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MAXWELL M. HODGE, III]	
Plaintiff,]	
]	
v.]	No. 3:16-cv-2470
]	Judge Trauger
CORRECTIONS CORPORATION OF]	
AMERICA, et al.]	
Defendants.]	

MEMORANDUM AND ORDER

The plaintiff has filed a Motion for preliminary injunctive relief. *See* Docket Entry No. 56. According to the Motion, the prisoner plaintiff was confined in a cell for four days where it was so cold that there was “ice on the vent and the toilet and sink”. *Id.* at pg. 1. He asks that the defendants be made to turn on the heat, fix the exhaust vent and appoint a federal liaison to monitor the situation.

The defendants have filed a Response (Docket Entry No. 61) in opposition to the plaintiff’s Motion. They deny that the plaintiff’s cell was ever so cold as to form ice on the vent, toilet or sink. In support of their position, they have included with the Response an unsworn Statement (Docket Entry No. 62) from Paul Denius, a Maintenance Supervisor at the Trousdale Turner Correctional Center, saying that the temperature in the plaintiff’s cell during the dates in question was never set below 68 degrees Fahrenheit.

On February 6, 2017, the Magistrate Judge issued a Report and Recommendation (Docket

Entry No. 64) addressing the plaintiff's Motion. The Magistrate Judge concludes that the Court should deny the plaintiff's Motion. The Magistrate Judge's recommendation is based upon her finding that the plaintiff "simply has not shown extraordinary and urgently compelling reasons justifying the relief he seeks." *Id.* at pg. 3. The plaintiff has filed no objections to the Report and Recommendation.

A preliminary injunction is an extraordinary remedy that should only be granted if the plaintiff carries his burden of proving that the circumstances clearly demand it. Overstreet v. Lexington-Fayette Urban County Gov't, 305 F.3d 566, 573 (6th Cir. 2002). The grant or denial of a preliminary injunction is a matter within the sound discretion of the district court. Virginia Railway Co. v. System Federation, R.E.O., 300 U.S. 515, 551 (1937).

In determining whether to issue a preliminary injunction, the Court must consider four factors: (1) whether the plaintiff is likely to succeed on the merits, (2) whether the plaintiff is likely to suffer irreparable harm in the absence of injunctive relief, (3) whether a preliminary injunction would cause substantial harm to others, and (4) whether a preliminary injunction would be in the public interest. Winter v. National Resource Defense Council, 555 U.S. 7, 20 (2008). Although no single factor is controlling, the likelihood of success is often the predominant consideration. Gonzales v. National Board of Medical Examiners, 225 F.3d 620, 625 (6th Cir. 2000).

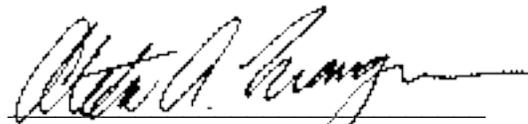
The Magistrate Judge correctly found that, at this stage of the proceedings, the plaintiff's likelihood of success is no greater than that of the defendants. There is no claim that the plaintiff was denied drinking water or the use of a toilet for the four day period when his cell was allegedly too cold. Thus, irreparable harm to the plaintiff has not been shown. Moreover, injunctive relief in this instance would not only embroil the Court in the day-to-day management of the Trousdale Turner

Correctional Center, but could negatively impact the important public policies of comity and federalism. *See Dean v. Coughlin*, 804 F.2d 207, 213 (2d Cir. 1986).

Accordingly, having conducted a *de novo* review of the plaintiff's Motion, and in the absence of any objection from the plaintiff, the Court finds that the plaintiff has shown no compelling reason for this relief. The Report and Recommendation is ACCEPTED and made the findings of fact and conclusions of law of this Court. For the reasons expressed therein, the plaintiff's Motion for preliminary injunctive relief (Docket Entry No. 56) is hereby DENIED.

This case is returned to the Magistrate Judge for further handling under the original referral order.

It is so ORDERED.


Aleta A. Trauger
United States District Judge