

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

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| DAMON CRIST, |) | ORDER & MEMORANDUM DECISION |
| |) | |
| Plaintiff, |) | Case No. 2:10-CV-675 TS |
| |) | |
| v. |) | District Judge Ted Stewart |
| |) | |
| DR. KENNON TUBBS et al., |) | |
| |) | |
| Defendants. |) | |

Plaintiff/inmate, Damon Crist, filed a *pro se* civil rights complaint. See 42 U.S.C.S. § 1983 (2011). He has since filed motions for preliminary injunctive relief, requesting pain medication and a court order stopping any possible future transfer to another facility.

The Court evaluates Plaintiff's motions for preliminary injunctive relief. Plaintiff appears, in part, to merely be trying to expedite the relief he seeks in his complaint. This type of injunction is disfavored by the law. See *SCFC ILC, Inc. v. Visa USA, Inc.*, 936 F.2d 1096, 1098-99 (10th Cir. 1991). Additionally, because Plaintiff's medication has been reinstated and he has not been transferred away from his preferred facility, any relief granted by this Court would be prospective in nature. In other words, Plaintiff is asking the Court to stop Defendants from doing something that has not even been done yet.

Further, Plaintiff has not specified adequate facts showing each of the four elements necessary to obtain a preliminary injunctive order:

"(1) a substantial likelihood of prevailing on the merits; (2) irreparable harm in the absence of the injunction; (3) proof that the threatened harm outweighs any damage the injunction may cause to the party opposing it; and (4) that the injunction, if issued, will not be adverse to the public interest."

Brown v. Callahan, 979 F. Supp. 1357, 1361 (D. Kan. 1997)

(quoting *Kan. Health Care Ass'n v. Kan. Dep't of Soc. and Rehab. Servs.*, 31 F.3d 1536, 1542 (10th Cir. 1994)).

Preliminary injunctive relief is an extraordinary and drastic remedy to be granted only when the right to relief is "clear and unequivocal." *SCFC ILC, Inc.*, 936 F.2d at 1098. The Court has carefully reviewed Plaintiff's pleadings and motions for injunctive relief, together with Defendants' responses to his motions, and concludes Plaintiff's claims do not rise to such an elevated level that an emergency injunction is warranted. In sum, Plaintiff has not met the heightened pleading standard required in moving for an emergency injunction. These motions are denied.

IT IS HEREBY ORDERED that:

(1) Plaintiff's motions for preliminary injunctive relief are DENIED. (See Docket Entry #s 9, 14, & 25.) The Court also notes that, because this case is in active litigation--i.e., Defendants' answers have recently been filed and a *Martinez* report and summary-judgment motion are due soon--relief, if warranted, is presumably relatively not far off.

(2) Plaintiff's motion regarding discovery is DENIED as premature, pending Defendants' submission of their *Martinez* report and summary-judgment motion. (See Docket Entry # 59.)

(3) Plaintiff's motion for time extension to reply to Defendants' response to his motions for preliminary injunctive relief are DENIED as moot. (See Docket Entry # 61.) Plaintiff's replies have already been filed and accepted by the Court.

DATED this 2nd day of August, 2010.

BY THE COURT:



TED STEWART, CHIEF JUDGE
United States District Court