UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JAMES HANTON	:	
	:	PRISONER
v.	:	Case No. 3:03CV1643 (SRU)(WIG)
	:	
EMILY SAVOIE, et al.	:	

RULING AND ORDER

The plaintiff, James Hanton ("Hanton"), filed this civil rights action pro se and in forma pauperis pursuant to 28 U.S.C. § 1915. He raised two claims: (1) improper medical treatment at the Corrigan-Radgowski Correctional Center in Uncasville, Connecticut, from July through early October 2003, and (2) refusal by state officials to mark ready various motions he filed in a state case because he lacked access to the internet or a fax machine.

Hanton has filed two motions for preliminary injunctive relief, a motion for injunction filed September 25, 2003, and a motion for temporary restraining order and preliminary injunction filed April 6, 2004. Defendants responded to both motions on May 14, 2004. Hanton replied to the objection on May 24, 2004. For the reasons that follow, both motions are denied.

I. Standard of Review

"[I]nterim injunctive relief is an 'extraordinary and drastic remedy which should not be routinely granted.'" Buffalo Forge Co. v. Ampco-Pittsburgh Corp., 638 F.2d 568, 569 (2d Cir. 1981) (quoting Medical Society of New York v. Toia, 560 F.2d 535, 538 (2d Cir. 1977)). In addition, a federal

court should grant injunctive relief against a state or municipal official "only in situations of most compelling necessity." Vorbeck v. McNeal, 407 F. Supp. 733, 739 (E.D. Mo.), aff'd, 426 U.S. 943 (1976).

In this circuit the standard for injunctive relief is well established. To warrant preliminary injunctive relief, the moving party "must demonstrate (1) that it will be irreparably harmed in the absence of an injunction, and (2) either (a) a likelihood of success on the merits or (b) sufficiently serious questions going to the merits of the case to make them a fair ground for litigation, and a balance of hardships tipping decidedly in its favor." Brewer v. West Irondequoit Central Sch. Dist., 212 F.3d 738, 743-44 (2d Cir. 2000).

Although a hearing is generally required on a properly supported motion for preliminary injunction, oral argument and testimony are not required in all cases. See Drywall Tapers & Pointers Local 1974 v. Local 530, 954 F.2d 69, 76-77 (2d Cir. 1992). Where, as here, "the record before a district court permits it to conclude that there is no factual dispute which must be resolved by an evidentiary hearing, a preliminary injunction may be granted or denied without hearing oral testimony." 7 James W. Moore, et al., Moore's Federal Practice ¶ 65.04[3] (2d ed. 1995). Upon review of the record, the court determines that oral testimony and argument are not necessary in this case.

II. Motion for Injunction [doc. #3]

In the first motion, Hanton asks the court to order defendants Savoie, Price and Chouhan: to provide medical treatment for his abdominal problems, to renew his prescription for Lactulose, and to stop interfering with his medical treatment. Hanton filed this motion while he was confined at Corrigan-Radgowski Correctional Center. He now is confined at the Willard-Cybulski Correctional Institution in

Enfield, Connecticut.

The Second Circuit has held that requests for injunctive relief become moot when an inmate is released or transferred to a different correctional facility. See Mawhinney v. Henderson, 542 F.2d 1, 2 (2d Cir. 1976); see also Martin-Trigona v. Shiff, 702 F.2d 380, 386 (2d Cir. 1983) ("The hallmark of a moot case or controversy is that the relief sought can no longer be given or is no longer needed."). Because Hanton no longer is confined at Corrigan-Radgowski Correctional Center, his request for injunctive relief concerning medical care provided at that facility is now moot. Accordingly, Hanton's first motion for preliminary injunction is denied.

III. Motion for Temporary Restraining Order/Preliminary Injunction [doc. #14]

In the second motion, Hanton states that Cheryl Malcolm and defendants Savoie and Price are interfering with his placement in a halfway house program and asks the court to enjoin any continued interference and order his immediate placement in a half-way house.

The court must have in personam jurisdiction over a person before it can validly enter an injunction against her. See Doctor's Assocs., Inc. v. Reinert & Duree, P.C., 191 F.3d 297, 302 (2d Cir. 1999); 11A Charles A. Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2956, at 335 (2d ed. 2001) ("A court ordinarily does not have power to issue an order against a person who is not a party and over whom it has not acquired in personam jurisdiction."). Cheryl Malcolm is not a defendant in this case. Thus, the court lacks jurisdiction to enjoin her actions.

Preliminary injunctive relief is designed "to preserve the status quo and prevent irreparable harm until the court has an opportunity to rule on the lawsuit's merits." Devose v. Herrington, 42 F.3d 470, 471 (8th Cir. 1994) (per curiam). To prevail on a motion for preliminary injunctive relief, the moving

party must establish a relationship between the injury claimed in the motion and the conduct giving rise to the complaint. See id.; see also Omega World Travel, Inc. v. Trans World Airlines, 111 F.3d 14, 16 (4th Cir. 1997) (reversing district court's granting of motion for preliminary injunctive relief because injury sought to be prevented through preliminary injunction was unrelated and contrary to injury which gave rise to complaint).

The claims against defendants Price and Savoie in the complaint arise out of the medical treatment Hanton received at the Corrigan-Radgowski Correctional Institution from July through early October 2003. In this motion, however, he contends that defendants Price and Savoie are attempting to interfere with his placement in a halfway house program in retaliation for his filing this action. Thus, the request for preliminary injunctive relief is beyond the scope of this action.

Further, even if this second motion for preliminary injunctive relief were proper, it would be denied. In opposition to the motion, defendants have filed affidavits demonstrating that Hanton's placement in a halfway house has been delayed because there is no space available and that no defendant has attempted to interfere in Hanton's placement. Thus, the court concludes that Hanton's assumptions regarding the reason for the delay in placement are unfounded.

IV. Conclusion

Hanton's motions for preliminary injunctive relief [**docs. ##3, 14**] are **DENIED**.

SO ORDERED this 8th day of July 2004, at Bridgeport, Connecticut.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge