

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Tony Tremayne Lewis v. Jeff Zmuda, et al.

Lewis v. Zmuda · No. 25-3271-JWL · Decided January 26, 2026

SUMMARY

The United States District Court for the District of Kansas denied Plaintiff Tony Tremayne Lewis’s motion for preliminary injunctive relief in his pro se 42 U.S.C. § 1983 action concerning prison conditions, transfer, access to legal materials, television use, and filing procedures. The court granted his motion for an extension of time to provide a corrected six-month account statement and maintained the initial partial filing fee assessment unless the statement was timely provided.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	January 26, 2026
DOCKET	25-3271-JWL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, an incarcerated pro se litigant proceeding under 42 U.S.C. § 1983, moved for preliminary injunctive relief and an extension of time to submit a corrected six-month inmate account statement. The district court denied injunctive relief and granted the extension in part.
STANDARD OF REVIEW	A preliminary injunction requires a showing of likelihood of success on the merits, likely irreparable harm, a favorable balance of equities, and consistency with the public interest. A mandatory preliminary injunction requiring affirmative action is disfavored and requires a heightened showing. The court also applied 18 U.S.C. § 3626(a)(2)'s requirement to give substantial weight to adverse effects on public safety and prison operations.
PRECEDENTIAL VALUE	Nonprecedential district court memorandum and order

TOPICS

- section 1983
- prisoners rights
- injunctions
- civil procedure

PRACTICE AREAS

civil rights

prisoner litigation

federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff established entitlement to a preliminary injunction requiring prison officials to transfer him, permit television use, and process pro se filings within specified deadlines.
2. Whether Plaintiff should receive an extension of time to submit a six-month account statement for the period immediately preceding the filing of his complaint.

HOLDINGS

1. Plaintiff was not entitled to a preliminary injunction because he failed to make the heightened showing required for a mandatory injunction, including a clear and unequivocal likelihood of success and certain, non-theoretical irreparable harm.
2. Plaintiff was granted an extension until February 12, 2026, to provide an account statement for the six-month period immediately preceding the filing of his complaint.

KEY QUOTATIONS

“A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.””

“To constitute irreparable harm, an injury must be certain, great, actual and not theoretical.”

FACTUAL BACKGROUND

Plaintiff, incarcerated at the Hutchinson Correctional Facility, alleged that after notifying prison officials of another civil action he was transferred to worse conditions, his legal box was withheld for approximately two weeks, and legal materials were missing when it was returned. He also alleged that his television was taken, his new housing unit lacked a LexisNexis tablet, and promised or requested transfers were not made. Plaintiff sought orders requiring a transfer, restoration of television use, and prompt e-filing or return of pro se submissions. Separately, he sought additional time to submit the six-month account statement required for in forma pauperis proceedings.

PROCEDURAL HISTORY

The court granted Plaintiff leave to proceed in forma pauperis and previously issued a show-cause order giving him time to amend his complaint or show why it should not be dismissed. Plaintiff then moved for injunctive relief concerning his prison housing, legal materials, television, and filing procedures, and moved for additional time to provide a compliant six-month account statement. The court denied the injunction and granted the requested extension to February 12, 2026, subject to the stated filing-fee consequence.

DISPOSITION

other

CASES CITED

- Little v. Jones, 607 F.3d 1245, 1251 (10th Cir. 2010)
- Dominion Video Satellite, Inc. v. Echostar Satellite Corp., 356 F.3d 1256, 1260 (10th Cir. 2004)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 22 (2008)
- Schrier v. University of Colorado, 427 F.3d 1253, 1258 (10th Cir. 2005)
- Adrian v. Westar Energy, Inc., No. 11-1265-KHV, 2011 WL 6026148, at *3 (D. Kan. 2011)
- Heideman v. South Salt Lake City, 348 F.3d 1182, 1189 (10th Cir. 2003)
- State of Connecticut v. Commonwealth of Massachusetts, 282 U.S. 660, 674 (1931)
- Porro v. Barnes, 624 F.3d 1322, 1329 (10th Cir. 2010)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS TONY TREMAYNE LEWIS, Plaintiff, v. CASE NO. 25-3271-JWL JEFF ZMUDA, et al., Defendants. MEMORANDUM AND ORDER Plaintiff brings this pro se civil rights case under 42 U.S.C. § 1983. Plaintiff is incarcerated at the Hutchinson Correctional Facility in Hutchinson, Kansas (“HCF”).

The Court granted Plaintiff leave to proceed in forma pauperis. On January 16, 2026, the Court entered a Memorandum and Order to Show Cause (Doc. 7) (“MOSC”) granting Plaintiff until February 17, 2026, in which to show good cause why his Complaint should not be dismissed for the reasons set forth in the MOSC or to file an amended complaint to cure the deficiencies.

This matter is before the Court on Plaintiff’s Motion for Injunctive Relief (Doc. 8) and Motion for Extension of Time (Doc. 9). I. Motion for Injunctive Relief Plaintiff alleges that shortly after he notified prison officials that he was filing another civil suit, he was transferred to worse conditions at HCF, and that his legal box was held hostage for about two weeks after his transfer.

(Doc. 8, at 1.) He claims that his legal box held all of the legal material in connection with filing this case. *Id.* Plaintiff claims that when he received his legal box back, he discovered that there were “Exhibits and intellectual properties missing.” *Id.* Plaintiff also alleges that his television was taken away “in contravention to state law.” *Id.* (citing IMPP 12- 120A).

Plaintiff also alleges that he was moved to a unit that does not provide a Lexis Nexis tablet. *Id.* Plaintiff alleges that at his segregation review board hearing on December 16th, he asked to be transferred. He claims that the board agreed and assured Plaintiff that he would be transferred to either Lansing’s or Larned’s RHU. *Id.* Plaintiff claims that he submitted a motion for injunctive relief for e-filing on December 17, and it was never e-filed or returned to Plaintiff.

Id. at 1–2. Plaintiff alleges that this caused him to suffer longer and required him to file another motion. *Id.* at 2. Plaintiff states that injunctive relief is needed to prevent further negligence and

retaliation. *Id.* Plaintiff seeks to have this Court order Defendant Zmuda to transfer Plaintiff to the Restrictive Housing Unit at either Larned or Lansing Correctional Facility.

Id. Plaintiff also seeks an order requiring Defendant Dan Schnurr to comply with IMPP 12-120A by allowing use of purchased televisions. *Id.* Lastly, Plaintiff seeks an order requiring Defendant Matthew Moore to e-file all submitted motions by pro se litigants within 48 hours of receiving it, and to return the submitted legal material “promptly.” *Id.* To obtain a preliminary injunction, the moving party must demonstrate four things: (1) a likelihood of success on the merits; (2) a likelihood that the movant will suffer irreparable harm in the absence of preliminary relief; (3) that the balance of the equities tip in the movant’s favor; and (4) that the injunction is in the public interest.

Little v. Jones, 607 F.3d 1245, 1251 (10th Cir. 2010). “[A] showing of probable irreparable harm is the single most important prerequisite for the issuance of a preliminary injunction.” *Dominion Video Satellite, Inc. v. Echostar Satellite Corp.*, 356 F.3d 1256, 1260 (10th Cir. 2004). A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res.*

Def. Council, Inc., 555 U.S. 7, 22 (2008). A preliminary injunction is appropriate only when the movant’s right to relief is clear and unequivocal. *Schrier v. Univ. of Colo.*, 427 F.3d 1253, 1258 (10th Cir. 2005). Plaintiff seeks an order requiring his transfer to another facility and requiring staff to e-file all submissions within 48 hours. Plaintiff also seeks to have use of his television.¹ A federal court considering a motion for preliminary injunctive relief affecting the conditions of a prisoner’s confinement must give “substantial weight to any adverse impact on public safety” and on prison operation.

18 U.S.C. § 3626(a)(2). Finally, a mandatory preliminary injunction, such as the one sought by Plaintiff, which requires the non-moving party to take affirmative action, is disfavored and therefore requires the moving party to make a heightened showing of the four factors above. *Little*, 607 F.3d at 1251.

Because preliminary injunctions and TRO’s are drastic remedies—“the exception rather than the rule—plaintiffs must show that they are clearly and unequivocally entitled to relief.” *Adrian v. Westar Energy, Inc.*, No. 11-1265-KHV, 2011 WL 6026148, at *3 (D. Kan. 2011) (citations omitted). Plaintiff states that injunctive relief is needed to prevent further negligence and retaliation.² Plaintiff’s allegations do not establish that injury is certain and not theoretical, or more than merely feared as liable to occur in the future. “To constitute irreparable harm, an injury must be certain, great, actual and not theoretical.” *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1189 (10th Cir.

2003) (internal quotation marks omitted). A preliminary injunction is only appropriate “to prevent existing or presently threatening injuries. One will not be granted against something merely feared
1 Although Plaintiff alleges that prison policies require staff to allow him to use his television, the violation of a prison regulation does not state a constitutional violation unless the prison official’s conduct “failed to conform to the constitutional standard.” *Porro v. Barnes*, 624 F.3d 1322, 1329 (10th Cir.

2010) (internal quotation marks omitted) (holding prisoner must establish that violation of a prison policy necessarily stated a constitutional violation). 2 The Court found in the MOSC that Plaintiff’s retaliation claim is subject to dismissal for failure to allege adequate facts in support. (Doc. 7, at 17–18.) as liable to occur at some indefinite time in the future.” *State of Connecticut v. Commonwealth of Massachusetts*, 282 U.S. 660, 674 (1931).

The Court finds that Plaintiff has not met his burden to make a heightened showing that entry of a preliminary injunction is warranted; he has not demonstrated a likelihood of success on the merits such that his right to relief is clear and unequivocal. Plaintiff’s motion for preliminary injunctive relief is denied. II. Motion for Extension of Time Plaintiff seeks an extension of time until February 12, 2026, to submit his 6-month account statement.

(Doc. 9, at 1.) Plaintiff alleges that there was a delay in receiving the Court’s Notice of Deficiency regarding his failure to provide an updated account statement. *Id.* On December 12, 2025, the Court issued a Notice of Deficiency due to Plaintiff’s failure to provide an account statement for the appropriate 6-month period. (Doc. 4, at 1.)

The account statement submitted by Plaintiff was not for the 6-month period immediately preceding the filing of his Complaint. See 28 U.S.C. § 1915(a)(2). The Court subsequently granted Plaintiff’s motion for leave to proceed in forma pauperis and used the 6-month account statement supplied by Plaintiff to calculate an initial partial filing fee. (Doc. 6.)

The Court will grant Plaintiff’s motion to the extent that he is granted until February 12, 2026, in which to supply the Court with a 6-month account statement for the period immediately preceding the filing of his Complaint. If the corrected account statement is provided to the Court, the Court may recalculate Plaintiff’s initial partial filing fee. If Plaintiff does not provide an updated account statement by the deadline, the Court’s assessment of an initial partial filing fee in the amount of \$21.50 will stand.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Injunctive Relief (Doc. 8) is denied. IT IS FURTHER ORDERED that Plaintiff’s Motion for Extension of Time (Doc. 9) is granted to the extent that Plaintiff is granted until February 12, 2026, in which to supply the Court with a 6-month account statement for the period immediately preceding the filing of his Complaint.

IT IS SO ORDERED. Dated January 26, 2026, in Kansas City, Kansas. S/ John W. Lungstrum
JOHN W. LUNGSTRUM UNITED STATES DISTRICT JUDGE

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