

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40054
Conference Calendar

MARIO YARRITO,

Plaintiff-Appellant,

versus

JEFFREY A. COOK, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 93-CV-694
- - - - -
(July 21, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Mario Yarrito, proceeding pro se and in forma pauperis (IFP), appeals from the denial of his motion for a temporary restraining order and/or preliminary injunction. Yarrito alleged that the defendant correctional officers threatened him, assaulted him, burned his legal materials, and denied him recreation time, showers, and noon meals in retaliation for filing a lawsuit against them alleging excessive force.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

The denial of a TRO is not appealable. Matter of Lieb, 915 F.2d 180, 183 (5th Cir. 1990). The denial of a motion for preliminary injunction, on the other hand, is immediately appealable. See 28 U.S.C. § 1292(a)(1); Lakedreams v. Taylor, 932 F.2d 1103, 1106 (5th Cir. 1991). Such a denial, however, will be reversed by this Court "only under extraordinary circumstances." White v. Carlucci, 862 F.2d 1209, 1211 (5th Cir. 1989). The review is for abuse of discretion. Id.

A movant for a preliminary injunction must demonstrate (1) a substantial likelihood of success on the merits, (2) a substantial threat that failure to grant the injunction will result in irreparable injury, (3) that the threatened injury outweighs any damage that the injunction will cause to the adverse party, and (4) that the injunction will not have an adverse effect on the public interest. Lakedreams, 932 F.2d at 1107.

Yarrito does not provide any arguments or set forth any of the elements necessary to establish a valid excessive force claim. As such, he has clearly failed to carry his burden of demonstrating a substantial likelihood of success on the merits. The district court did not abuse its discretion by denying Yarrito's motion for a preliminary injunction. See Black Fire Fighters Ass'n v. City of Dallas, 905 F.2d 63, 65 (5th Cir. 1990) ("The denial of a preliminary injunction will be upheld where the movant has failed sufficiently to establish *any one* of the four criteria") (emphasis in original).

AFFIRMED.