

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-40456  
Conference Calendar

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FREDDY WAYNE HURLEY,

Plaintiff-Appellant,

versus

RICHARD GUNNELS, Lieutenant, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 9:92-CV-130

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(November 16, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:\*

The district court's denial of a motion requesting injunctive relief is an interlocutory order that is immediately appealable under 28 U.S.C. § 1292(a)(1). The decision to deny a preliminary injunction will be reversed by this Court "only under extraordinary circumstances." White v. Carlucci, 862 F.2d 1209, 1211 (5th Cir. 1989). This Court reviews that decision for an abuse of discretion. Id. The district court's findings of fact are subject to the clearly erroneous standard of review. Id.; Fed. R. Civ. P. 52(a). Legal determinations "are subject to

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

broad review and will be reversed if incorrect." White, 862 F.2d at 1211 (internal quotation and citation omitted).

In order for a preliminary injunction to issue, the movant 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 disserve the public interest. Lakedreams v. Taylor, 932 F.2d 1103, 1107 (5th Cir. 1991). The movant for an injunction carries "a heavy burden of persuading the district court that all four elements are satisfied," and failure to carry the burden on any one of the four elements will result in the denial of the motion. Enterprise Intern. v. Corporacion Estatal Petrolera Ecuatoriana, 762 F.2d 464, 472 (5th Cir. 1985) (internal quotation and citation omitted).

The district court adopted, inter alia, the magistrate judge's recommended findings that 1) "Hurley, an inmate assigned to protective custody, was transported on December 17, 1992, in a van along with inmates not assigned to protective custody;" 2) "[n]o known enemies of Hurley were transported with him;" and 3) the Texas Department of Criminal Justice, Institutional Division (TDCJ-ID) "has procedures in place to prevent known enemies of Hurley from being transported with him." The court concluded that Hurley had only "offered vague and unsubstantiated allegations that he suffers from a substantial threat of injury[.]"

Notwithstanding Hurley's contrary assertion, the posture of this case, following remand, has changed significantly. The district court has provided the necessary factual findings and legal conclusions for this Court to review the propriety of the order denying the preliminary injunction. See Fed. R. Civ. P. 52(a). Thus, this Court, in analyzing the district court's decision, must determine whether the court was clearly erroneous in its findings of fact and whether it abused its discretion in concluding that an injunction was not warranted.

Although Hurley challenges the district court's factual findings as not supported by "valid evidence", he fails to point to a specific factual dispute relevant to whether he will suffer irreparable injury if the preliminary injunction is not granted. When the material facts are not in dispute, a district court that is analyzing a request for a preliminary injunction may employ informal procedures as long as the record supports the district court's decision. See Sierra Club, Lone Star Chapter v. FDIC, 992 F.2d 545, 551 (5th Cir. 1993). Hurley's argument is simply that if he is transported with other prisoners, he may come in contact with potential enemies who could attack him. He points out that the restraining devices used during transport "could be used as weapons in close quarters[.]" This allegation of injury is insufficient to show that failure to grant the injunction would result in irreparable injury. "Speculative injury is not sufficient; there must be more than an unfounded fear on the part of the applicant." Holland America Ins. Co., v. Succession of Roy, 777 F.2d 992, 997 (5th Cir. 1985). As Hurley has failed to

satisfy the "irreparable injury" element, the district court did not abuse its discretion in concluding that an injunction was not warranted. Consequently, this Court need not discuss whether he has proven the other three elements. See Enterprise Intern., 762 F.2d at 472.

AFFIRMED.