

FILED	LODGED
RECEIVED	COPY
JUN 19 2000	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY <i>[Signature]</i>	DEPUTY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____)
 LAWRENCE J. KRUG,)
)
 Plaintiff,)
)
 v.)
)
 TERRY STEWART, et al.,)
)
 Defendants.)
 _____)

No. CV 99-362-TUC-RCC
ORDER

Petition for Injunctive Relief

On May 18, 2000, Plaintiff filed a Petition for Injunctive Relief, Issuance of TRO. The issue has been fully briefed. Plaintiff contends that the legal mail procedures currently being enforced at his prison unit are impeding his access to the courts. For issuance of a temporary restraining order or a preliminary injunction, the Court of Appeals for the Ninth Circuit has determined that the applicant must show either (1) a combination of probable success on the merits and the possibility of irreparable injury if relief is not granted, or (2) the existence of serious questions going to the merits and that a balance of hardships tips sharply in its favor. *Tracer Research Corp. v. Nat'l Envtl Serv. Co.*, 843 F.Supp. 568, 581-82 (D. Ariz. 1993); *see also Rent-A-Center, Inc. v. Canyon Television & Appliance Rental, Inc.*, 944 F.2d 597, 602 (9th Cir. 1991).

All Plaintiff has presented at this point is a theoretical impediment to his court access, and the access of other inmates that are not at issue in this case. It is evident from the filings before

142

1 this Court that Plaintiff is able to send filings to the Court on a regular basis, often several times
2 a week. He has missed no deadlines. Further, if Plaintiff were prevented from making a deadline
3 due to Defendants' actions, he has a remedy by filing something with the Court after the fact.
4
5 Plaintiff has made no showing of irreparable harm or that the balance of hardship tips sharply in
6 his favor. Because Plaintiff has not made the necessary showing for a temporary restraining order
7 the Court will deny his request.

8 **Discovery**

9
10 On May 18, 2000, Plaintiff filed a Petition to Inform the Court of his Intent to Waive
11 Interrogatories and Admissions. If Plaintiff chooses not to engage in certain forms of discovery
12 that is his choice and he need not notice the Court or the parties about his decision. If he
13 experiences legitimate unresolvable problems engaging in whatever type of discovery he chooses,
14 he may seek the assistance of the Court at that time and not before then. Regardless, discovery
15 in this case has not begun. Plaintiff has indicated an urgency to begin discovery in order to
16 support his pending motion for summary judgment. In an April 24, 2000 Order the Court
17 cautioned Plaintiff that if he believed that discovery was necessary to his motion for summary
18 judgment, he should not file it until he had the necessary discovery completed. Plaintiff chose to
19 file a motion for summary judgment soon thereafter, despite being informed in the same order that
20 discovery was not yet open and that the Court would set discovery deadlines at such future time
21 as it deemed appropriate. Despite Plaintiff's sense of urgency, the Court finds that it would be
22 inefficient to begin discovery until after all parties have had an opportunity to appear. Therefore,
23 the Court will stay discovery until further order of the Court. Plaintiff is cautioned that the Court
24 does not intend to entertain any filings or motions regarding discovery until such time as this stay
25 is lifted. Plaintiff need not file motions requesting a lift of this stay, as the Court will lift it at the
26
27
28

1 time it deems appropriate.

2

3

4

5

Accordingly, **IT IS ORDERED** that Plaintiff's May 18, 2000 Petition for Injunctive Relief is **DENIED**.

6

IT IS FURTHER ORDERED that discovery is **STAYED** until further order of the Court.

7

8

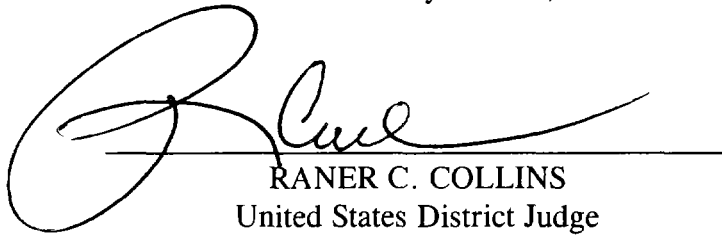
Dated this 16th day of June, 2000.

9

10

11

12


RANER C. COLLINS
United States District Judge

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28