

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 19-cv-02222-GPG

SALVADOR MAGLUTA,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,  
FNU TUTTOILMONDO,  
FNU McKINNEY,  
FNU PARRY,  
FNU HOLBROOK,  
FNU CARR,  
FNU LT. PEREZ,  
FNU HARTZ,  
FNU SMITH,  
FNU BRYSON,  
FNU KENT,  
FNU SOUN-LIKE DONNCELLI ?,  
FNU MARTINEZ, and  
JON DO DEFENDANTS 1 TO . . . ,

Defendants.

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ORDER

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This matter is before the Court on Plaintiff's Motion for a Preliminary Injunction and a Temporary Restraining Order Pursuant to F.R.C.P. 65, ECF No. 11, filed October 21, 2019. In the Motion, Plaintiff appears to challenge the denial of medicines, property, and "access." ECF No. 11.

The Court must construe the Motion liberally because Plaintiff is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*,

935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not act as an advocate for a *pro se* litigant. See *Hall*, 935 F.2d at 1110.

The requirements for the issuance of a temporary restraining order are like those for the issuance of a preliminary injunction. Injunctive relief is considered an “extraordinary remedy” and the movant must demonstrate a “clear and unequivocal right” in order to have a request granted. *Greater Yellowstone Coalition v. Flowers*, 321 F.3d 1250 (10th Cir. 2003).

A party seeking a preliminary injunction must show a substantial likelihood of prevailing on the merits, that he will suffer irreparable injury unless the injunction issues, that the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party, and that the injunction, if issued, would not be averse to the public interest. See *Lundgrin v. Claytor*, 619 F.2d 61, 63 (10th Cir. 1980).

Plaintiff fails to demonstrate a substantial likelihood of prevailing on the merits. In the September 23, 2019 Amended Prisoner Complaint, Plaintiff asserts claims regarding the denial of access to the courts, to his mail, and to his property. See ECF Nos.9 and 9-1. In the Motion, Plaintiff challenges the denial of adequate medical treatment for mental health needs. See ECF No. 11. The individuals he identifies in the Motion against whom he asserts inadequate medical treatment claims are not named defendants in the Amended Prisoner Complaint. Furthermore, Plaintiff’s claims for the most part are conclusory and vague. The Court, therefore, will deny the Motion for failure to demonstrate a substantial likelihood that he will prevail on the merits. Accordingly, it is

ORDERED that Plaintiff's Motion for a Preliminary Injunction and a Temporary Restraining Order, ECF 11, filed on October 21, 2019, is **DENIED** without prejudice for failure to demonstrate a substantial likelihood of prevailing on the merits.

DATED at Denver, Colorado, this 4<sup>th</sup> day of November, 2019.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court