

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-3809

Dennis Brooks,

Appellant,

v.

James McKinney; Terry E. Branstad;
Russell Rogerson; John Klpfist, C/O;
Chambers, C/O; Jerry Connelly,

Appellees.

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Appeal from the United States
District Court for the
Southern District of Iowa.

[UNPUBLISHED]

Submitted: April 29, 1998

Filed: May 1, 1998

Before BOWMAN, Chief Judge, WOLLMAN, and MORRIS SHEPPARD ARNOLD,
Circuit Judges.

PER CURIAM.

Dennis Brooks, an Iowa inmate, appeals from the district court's¹ order denying his request for a preliminary injunction in this 42 U.S.C. § 1983 suit. We affirm.

¹The Honorable Robert W. Pratt, United States District Judge for the Southern District of Iowa.

Brooks alleged in his suit that he was housed in the same cell with one inmate who had hepatitis and another who was HIV positive, and that defendant Jerry Connelly thereafter refused to have Brooks tested for the diseases. Brooks sought a preliminary injunction ordering defendants to release him for testing outside the prison. Brooks does not dispute, however, that he has since been tested at the facility where he is currently housed. After careful review we conclude the district court did not abuse its discretion when it denied preliminary injunctive relief after considering the factors listed in Dataphase Systems, Inc. v. C L Systems, Inc., 640 F.2d 109, 113 (8th Cir. 1981) (en banc). See Stuart Hall Co. v. Ampad Corp., 51 F.3d 780, 784 (8th Cir. 1995) (standard of review). Accordingly, the judgment is affirmed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.