

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 98-2659

Jacqaus L. Martin,

Appellant,

v.

John I. Cherry, Jr.; Frank Hopkins;
Michael L. Kenney; Barry Looch;
Karen Shortridge,

Appellees.

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Appeal from the United States
District Court for the
District of Nebraska

[UNPUBLISHED]

Submitted: August 6, 1999

Filed: August 11, 1999

Before McMILLIAN, RICHARD S. ARNOLD, and HANSEN, Circuit Judges.

PER CURIAM.

Jacqaus L. Martin, an inmate at the Nebraska State Prison, appeals from an order entered in the District Court¹ for the District of Nebraska. In his 42 U.S.C. § 1983 complaint, Martin claimed prison officials violated his constitutional rights by confining

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska, adopting the report and recommendations of the Honorable Thomas D. Thalken, United States Magistrate Judge for the District of Nebraska.

him for two weeks in the prison's hospital. He sought preliminary injunctive relief, which the district court denied.

On appeal, Martin argues the merits of the claims he raised in his section 1983 complaint. Because the order from which Martin appeals did not dismiss the complaint, the merits of the action are not before us; however, we have jurisdiction to review the district court's denial of preliminary injunctive relief. See 28 U.S.C. § 1292(a)(1). We conclude the district court did not clearly err or abuse its discretion by denying Martin such injunctive relief. See United Indus. Corp. v. Clorox Co., 140 F.3d 1175, 1179 (8th Cir. 1998) (standard of review). We agree with the district court that Martin's claim that defendants may retaliate against him for filing the instant action is too speculative to justify issuing a preliminary injunction. See Goff v. Harper, 60 F.3d 518, 520-21 (8th Cir. 1995); Devose v. Herrington, 42 F.3d 470, 471 (8th Cir. 1994) (per curiam).

Accordingly, we affirm the denial of Martin's request for a preliminary injunction. We also deny his motion on appeal for judgment, and we note that Martin's motion to discontinue a power of attorney is not properly filed in this court.

A true copy.

Attest:

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