

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID W. WILLIAMSON,)
)
 Plaintiff,)
)
 v.) Civil Action No. 06-379-SLR
)
 CORRECTIONAL MEDICAL)
 SERVICES, CHRISTINE MALANEY,)
 DONNA PLANTE, MARGARET LOVE,)
 CHUKS IHUOMA, SITTA C. ALIE,)
 DR. ALAN ZIMBLE, MICHELLE)
 ROBINSON, JUANITA CLARK,)
 DR. CARLA KIONKE, and FIRST)
 CORRECTIONAL MEDICAL, INC.,)
)
 Defendants.)

MEMORANDUM ORDER

At Wilmington this 1st day of July, 2007, having reviewed the following pending motions;

IT IS ORDERED that the court's decision on the motion for injunctive relief (D.I. 38) is held in abeyance pending receipt of medical and dental records, plaintiff's motions for extension of time to file responses (D.I. 59, 66) are denied as moot, and plaintiff's motion to strike (D.I. 67) is denied, for the reasons that follow:

1. **Background.** Plaintiff, who proceeds pro se and was granted leave to proceed in forma pauperis, filed a motion for injunctive relief for CMS to provide four self-medication cards of Levothyroxine/ multivitamins at the beginning of each medication cycle to treat plaintiff's thyroid disease and for CMS to ensure the automatic scheduling of a clinic visit every ninety days. Plaintiff also seeks an order for CMS to provide reconstructive knee surgery, a special knee brace, and adequate physical

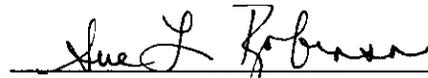
therapy. Finally, plaintiff, who suffers from periodontal disease, seeks an order requiring CMS to provide standard dental treatment for periodontal disease and a crown and root canal to repair a broken tooth. (D.I. 38) Defendants Correctional Medical Service, Inc. ("CMS"), Juanita Clark ("Clark"), Chuks Ihuoma ("Ihuoma"), Alan Zimble ("Dr. Zimble"), and Margaret Love ("Love") ask that the motion be denied. (D.I. 50) They contend that plaintiff's medical needs are being met and plaintiff's motion does not meet the standard for a preliminary injunction to issue.

2. **Standard of Review.** When considering a motion for a preliminary injunction, plaintiff must demonstrate that: (1) he is likely to succeed on the merits; (2) denial will result in irreparable harm; (3) granting the injunction will not result in irreparable harm to the defendant(s); and (4) granting the injunction is in the public interest. Maldonado v. Houstoun, 157 F.3d 179, 184 (3d Cir. 1997). "[A]n injunction may not be used simply to eliminate a possibility of a remote future injury, or a future invasion of rights." Continental Group, Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980) (quoting Holiday Inns of Am., Inc. v. B & B Corp., 409 F.2d 614, 618 (3d Cir. 1969)). "The relevant inquiry is whether the movant is in danger of suffering irreparable harm at the time the preliminary injunction is to be issued." SI Handling Sys., Inc. v. Heisley, 753 F.2d 1244, 1264 (3d Cir. 1985).

3. **Discussion.** The parties have not provided the court with plaintiff's medical or dental records. Plaintiff describes in detail the difficulties he has had in receiving his thyroid medication in a timely and consistent manner. CMS defendants contend plaintiff currently receives his medication in a timely manner. Similarly, CMS

defendants advise the court that knee surgery has been recommended for plaintiff and is, in fact, scheduled. Plaintiff argues that recommendations were made by an orthopedic surgeon and, to date, CMS has not followed a single medically needed recommendation. Finally, CMS defendants submitted an affidavit indicating a repair of plaintiff's broken tooth. (D.I. 50, ex. B) Plaintiff contends that CMS has not honored his request for a root canal or a permanent crown for his tooth. CMS' response does not address the issue of treatment of plaintiff's periodontal disease.

4. **Conclusion.** Due to the lack of medical records, the court is unable to determine whether plaintiff is entitled to injunctive relief. Therefore, defendant CMS is **ordered** to file with the court, **under seal**, and within twenty-one (21) days from the date of this order, plaintiff's medical and dental records and any information regarding plaintiff's upcoming knee surgery for an in camera inspection by the court.


UNITED STATES DISTRICT JUDGE