

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

<b>ROBERT ZENAS WHIPPLE, III</b>	)	
Plaintiff,	)	
	)	
v.	)	<b>Case No. 1:14-CV-117</b>
	)	
<b>REBECCA MILLAY, ET AL.</b>	)	
Defendants.	)	

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**DEFENDANTS’ RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION FOR  
PRELIMINARY INJUNCTION [DE 221]**

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Defendants, through the undersigned Assistant Attorney General, oppose Plaintiff’s Motion for Preliminary Injunction. Plaintiff seeks a preliminary injunction to require the Tennessee Department of Correction to return the annex library at Bledsoe County Correctional Institute (BCCX) to its previous hours.

When deciding whether to issue a preliminary injunction, the court should examine four factors:

- (1) whether the movant has a ‘strong’ likelihood of success on the merits; (2) whether the movant would otherwise suffer irreparable injury; (3) whether issuance of a preliminary injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of a preliminary injunction.

*Leary v. Daeschner*, 228 F.3d 729, 736 (6th Cir. 2000). “These factors are to be balanced against one another and should not be considered prerequisites to the grant of a preliminary injunction.” *Id.* “The failure to show irreparable harm, by itself, can justify the denial of preliminary injunctive relief without consideration of the other three factors.” *Forster v. Schofield*, No. 3:11-CV-0109, 2011 WL 4915804, at \*5 (M.D. Tenn. Oct. 17, 2011). Plaintiff’s request for injunctive relief

should be denied as Plaintiff has neither demonstrated a strong likelihood of success on the merits nor, irreparable injury from the change in the hours of operation for the BCCX annex library.

The instant action arises from events at Turney Center Industrial Complex (TCIX) where Plaintiff was housed prior to his transfer to BCCX. None of the defendants in this matter work at BCCX or have any control over the annex library at BCCX. Moreover, neither the State of Tennessee nor the Tennessee Department of Correction is a party in this lawsuit. Because none of the Defendants in the instant cases are employed at BCCX or have authority over the annex library at BCCX, Plaintiff's request for injunctive relief would not be proper against these defendants; therefore, Plaintiff has failed to show a strong likelihood of success on the merits for any retaliation claim arising from acts committed at BCCX. Plaintiff has also failed to show how the alleged change to the hours of operation for the BCCX annex library have resulted in irreparable injury. All he states in his motion is that the library hours were changed.

For the reasons stated above, Defendants request that the Court deny Plaintiff's Motion for Preliminary Injunction.

Respectfully submitted,

HERBERT H. SLATERY III  
Attorney General and Reporter

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this **12<sup>th</sup> day of April 2018**, a true and accurate copy of the foregoing was filed electronically. A copy of the foregoing was mailed via U.S. Mail to:

Robert Zenas Whipple, III #399615  
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S/ AMANDA S. JORDAN  
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