

STATE OF MICHIGAN
COURT OF APPEALS

LEWIS E. WILLIAMS,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS and
GOVERNOR,

Defendants-Appellees.

UNPUBLISHED

September 16, 1997

No. 192712

Wayne Circuit Court

LC No. 95-525072-CZ

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition in favor of defendant in this declaratory action. We affirm.

Most of the substantive issues raised by plaintiff have been resolved adversely to his position in *Blank v Department of Corrections*, 222 Mich App 385; 564 NW2d 130 (1997). To the extent that the formal promulgation, as nonemergency rules, of 1995 AACS R 791.6607-.6614 and R 791.6638 have not rendered moot issues regarding the issuance of interim emergency rules and departmental directives, plaintiff has pleaded no facts that would suggest that the determination by the executive branch of an emergency situation was so without foundation in reality as to permit the judiciary to declare the contrary. Const 1963, art 3, §2; *Moyer v Peabody*, 212 US 78; 29 S Ct 235; 53 L Ed 410, 416 (1909); *Sterling v Constantin*, 287 US 378; 53 S Ct 190; 77 L Ed 375, 386-387 (1932).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski