

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION

Gregory Horton v. Turning Point Missionaries Church Co-Founders,
et al.

Horton · No. 3:25-CV-1853-B-BK · Decided January 21, 2026

SUMMARY

The United States District Court for the Northern District of Texas accepted the magistrate judge’s findings and recommendations and dismissed Gregory Horton’s pro se prisoner civil rights complaint without prejudice under Federal Rule of Civil Procedure 41(b). The court denied Horton’s emergency motion for a temporary restraining order or preliminary injunction because he did not show immediate and irreparable injury or satisfy the notice requirements of Rule 65. The court also denied his motion for appointment of counsel and explained that private litigants generally cannot compel criminal investigations or prosecutions.

CASE DETAILS

COURT	United States District Court for the Northern District of Texas, Dallas Division
JURISDICTION	United States District Court for the Northern District of Texas, Dallas Division
DECIDED	January 21, 2026
DOCKET	3:25-CV-1853-B-BK
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings, conclusions, and recommendation concerning a pro se prisoner's civil-rights complaint and emergency motions for a temporary restraining order, preliminary injunction, and appointment of counsel. The district court accepted the recommendation, dismissed the complaint without prejudice under Federal Rule of Civil Procedure 41(b), and denied the emergency motions.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's findings, conclusions, and recommendation under 28 U.S.C. § 636(b)(1). The emergency-relief analysis applied the requirements of Federal Rule of Civil Procedure 65(b)(1), and appointment of counsel was governed by the exceptional-circumstances standard.

PRECEDENTIAL VALUE	unpublished district-court order; nonprecedential
PARTIES	Gregory Horton v. Turning Point Missionaries Church Co-Founders, et al.

TOPICS

injunctions section 1983 civil rights civil procedure remedies

PRACTICE AREAS

civil rights prisoner civil rights civil procedure injunctive relief appointment of counsel

QUESTIONS PRESENTED

1. Whether plaintiff satisfied the requirements for a temporary restraining order or preliminary injunction.
2. Whether plaintiff demonstrated exceptional circumstances warranting appointment of counsel under 28 U.S.C. § 1915(e)(1).
3. Whether plaintiff could obtain relief based on alleged violations of criminal statutes or an order directing the investigation or prosecution of alleged criminal conduct.
4. Whether the magistrate judge's recommendation should be accepted and plaintiff's pro se prisoner civil-rights complaint dismissed without prejudice under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. Plaintiff was not entitled to a temporary restraining order or preliminary injunction because he failed to show specific facts establishing immediate and irreparable injury and failed to provide the required written certification concerning notice.
2. Plaintiff was not entitled to appointment of counsel because he failed to show exceptional circumstances.
3. Plaintiff could not obtain civil relief based solely on alleged violations of criminal statutes because he did not identify a statutory basis from which a private right of action could be inferred.
4. Plaintiff could not obtain an order directing the investigation or prosecution of alleged criminal conduct because private citizens lack standing to institute federal criminal prosecutions or enforce criminal statutes, and federal courts lack power to issue mandamus against state officers when mandamus is the only relief sought.

KEY QUOTATIONS

“the Court may issue a temporary restraining order without written or oral notice to the adverse party only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.” (Discussion)

“decisions whether to prosecute or file criminal charges are generally within the prosecutor’s discretion, and, as a private citizen, [the plaintiff] has no standing to institute a federal criminal prosecution and no power to enforce a criminal statute.” (Discussion)

FACTUAL BACKGROUND

Plaintiff, a pro se prisoner, alleged child abuse, child exploitation, racially motivated crimes, and other criminal conduct and sought expedited judicial intervention. He filed an affidavit with his emergency motion but did not certify efforts to notify the defendants or explain why notice should be excused. He also sought appointment of counsel but did not demonstrate exceptional circumstances.

PROCEDURAL HISTORY

Plaintiff filed a pro se prisoner civil-rights complaint and emergency motions seeking injunctive relief concerning alleged child abuse, child exploitation, racially motivated crimes, and related criminal conduct, as well as appointment of counsel. A magistrate judge issued findings, conclusions, and a recommendation. After reviewing the recommendation and any objections under 28 U.S.C. § 636(b)(1), the district court accepted it, dismissed the complaint without prejudice under Rule 41(b), and denied the emergency motions.

DISPOSITION

dismissed

CASES CITED

- Ulmer v. Chancellor, 691 F.2d 209, 213 (5th Cir. 1982)
- Castro Romero v. Becken, 256 F.3d 349, 353-54 (5th Cir. 2001)
- Cort v. Ash, 422 U.S. 66, 79 (1975)
- Touche Ross & Co. v. Redington, 442 U.S. 560 (1979)
- Suter v. Artist M., 503 U.S. 347, 363 (1992)
- Williams v. Cintas Corp., No. 3:07-CV-0561-M, 2007 WL 1295802, at *2 (N.D. Tex. Apr. 10, 2007)
- Gill v. Texas, 153 F. App'x 261, 262-63 (5th Cir. 2005)
- Moye v. Clerk, DeKalb County Sup. Court, 474 F.2d 1275, 1275-76 (5th Cir. 1973) (per curiam)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION GREGORY HORTON, § #25020980, § PLAINTIFF, § § V. § CIVIL CASE
NO. 3:25-CV-1853-B-BK § TURNING POINT MISSIONARIES § CHURCH CO-FOUNDERS,
ET AL., § § DEFENDANTS. § ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE Before the Court are
the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, Plaintiff’s

Emergency Motion for Preliminary Injunction or Temporary Restraining Order and associated Motion to Appoint Counsel.

Docs. 19, 21. After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are ACCEPTED as the Findings and Conclusions of the Court.

For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, Plaintiff's pro se prisoner civil rights complaint, will be DISMISSED pursuant to Federal Rule of Civil Procedure 41(b). Further, based on the reasons set out below, Plaintiff's Emergency Motions are DENIED. 1 I. DISCUSSION In his Emergency Motion, Plaintiff appears to request the Court intervene on an expedited basis to address allegations of child abuse, child exploitation, and racially motivated crimes.

Plaintiff's Emergency Motion also appears to seek an order requiring the Court to investigate or intervene regarding alleged criminal conduct. See Doc. 21. Under Federal Rule of Civil Procedure 65 provides that "the Court may issue a temporary restraining order without written or oral notice to the adverse party only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required." FED.

R. CIV. P. 65(b)(1). In this instance, Plaintiff is not entitled to a TRO or a more lasting form of preliminary injunctive relief. Plaintiff has failed to provide specific facts that clearly show that immediate and irreparable injury, loss, or damage will result. See FED. R. CIV. P. 65(b)(1).

In addition, while Plaintiff filed an affidavit with his motion, he has not certified in writing any efforts made to give notice to the Defendants and the reasons why notice should not be required before a temporary restraining order is issued.

Thus, Plaintiff's motion for a TRO or a preliminary injunction is denied. Additionally, Plaintiff's Motion to Appoint Counsel is unsupported. A court may appoint counsel for a plaintiff proceeding in forma pauperis only if the case presents "exceptional circumstances." *Ulmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982); see *Castro Romero v. Becken*, 2 256 F.3d 349, 353 54 (5th Cir.

2001) (an in forma pauperis plaintiff is not entitled to court appointed counsel as a matter of law); 28 U.S.C. § 1915(e)(1). In determining whether a case presents exceptional circumstances, the court may consider the following factors: (1) the type and complexity of the case; (2) whether the indigent plaintiff is capable of adequately presenting the case; (3) whether the indigent is in a position to investigate adequately the case; and (4) whether the evidence will consist in large part

of conflicting testimony so as to require skill in the presentation of evidence and in cross examination.

Ulmer, 691 F.2d at 213. Here, Plaintiff has not shown that the case presents exceptional circumstances warranting the appointment of counsel. To the extent that Plaintiff seeks relief based on alleged violations of criminal law, the Court notes, in the alternative, that criminal statutes generally do not create a private right of action.

For a private right of action to exist under a criminal statute, there must be “a statutory basis for inferring that a civil cause of action of some sort lay in favor of someone.” *Cort v. Ash*, 422 U.S. 66, 79 (1975), overruled in part by *Touche Ross & Co. v. Redington*, 442 U.S. 560 (1979); see *Suter v. Artist M.*, 503 U.S. 347, 363 (1992) (concluding that the party seeking to imply a private right of action bears the burden to show that Congress intended to create one).

Plaintiff has pled nothing here that would even come close to meeting that burden. See also *Williams v. Cintas Corp.*, No. 3:07-CV-0561-M, 2007 WL 1295802, *2 (N. D. Tex. Apr. 10, 2007) (collecting cases finding no private cause of action for perjury in federal court and no private right of action for civil perjury under Texas law), R. & R. accepted, 2007 WL 1300780, at *1 (N.

D. Tex. May 02, 2007). Further, to the extent Plaintiff seeks an order directing the investigation or prosecution of alleged criminal conduct, such relief is not available in this civil action. See *Gill v. Texas*, 153 F. App’x 3 261, 262-63 (5th Cir. 2005) (“decisions whether to prosecute or file criminal charges are generally within the prosecutor’s discretion, and, as a private citizen, [the plaintiff] has no standing to institute a federal criminal prosecution and no power to enforce a criminal statute.”), Further, federal courts are without power to issue writs of mandamus against state officers in the performance of their duties where mandamus is the only relief sought.

See *Moye v. Clerk, DeKalb County Sup. Court*, 474 F.2d 1275, 1275-76 (5th Cir. 1973) (per curiam). IL. CONCLUSION In sum, for the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, Plaintiff's pro se prisoner civil rights complaint, will be DISMISSED WITHOUT PREJUDICE pursuant to Federal Rule of Civil Procedure 41(b).

Further, based on the foregoing, Plaintiffs Emergency Motions are DENIED. SO ORDERED. SIGNED: January 21, 2026. NIOB UNITED STATES DISTRICT JUDGE