

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
NORTH CAROLINA, WESTERN DIVISION

Andrew R. Smith v. Theodore Mermigos, et al.

Smith v. Mermigos · No. No. 5:26-CV-194-BO-RN · Decided April 3, 2026

SUMMARY

The United States District Court for the Eastern District of North Carolina denied pro se plaintiff Andrew R. Smith's motion for an emergency ex parte temporary restraining order seeking, in part, to stay child support enforcement activity. The court held that plaintiff failed to demonstrate why emergency ex parte relief was warranted under Federal Rule of Civil Procedure 65(b)(1)(B).

CASE DETAILS

COURT	United States District Court for the Eastern District of North Carolina, Western Division
JURISDICTION	United States District Court for the Eastern District of North Carolina, Western Division
DECIDED	April 3, 2026
DOCKET	No. 5:26-CV-194-BO-RN
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff sought an emergency ex parte temporary restraining order and preliminary injunction under Federal Rule of Civil Procedure 65 to stay child support enforcement activity.
STANDARD OF REVIEW	The court strictly construed the procedural requirements for an ex parte temporary restraining order under Federal Rule of Civil Procedure 65(b).
PRECEDENTIAL VALUE	Unknown
PARTIES	Andrew R. Smith v. Theodore Mermigos, et al.

TOPICS

- injunctions
- civil procedure
- child support

PRACTICE AREAS

- civil procedure
- injunction practice
- family law

QUESTIONS PRESENTED

1. Whether plaintiff demonstrated that an emergency ex parte temporary restraining order was warranted under Federal Rule of Civil Procedure 65(b)(1)(B).

HOLDINGS

1. The court denied plaintiff's request for an emergency ex parte temporary restraining order because he failed to demonstrate why such relief was warranted under Federal Rule of Civil Procedure 65(b)(1)(B).

KEY QUOTATIONS

“the stringent restrictions imposed by . . . Rule 65 [] on the availability of ex parte temporary restraining orders reflect the fact that our entire jurisprudence runs counter to the notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute.”

FACTUAL BACKGROUND

Andrew R. Smith filed an action seeking, in part, an immediate stay of all child support enforcement activity. He sought emergency ex parte relief through a temporary restraining order and preliminary injunction but did not demonstrate why immediate ex parte relief was warranted.

PROCEDURAL HISTORY

Plaintiff initiated the action on March 27, 2026, by filing a complaint, a motion to proceed in forma pauperis, and an emergency motion for a temporary restraining order and preliminary injunction. The district court denied the request for an emergency ex parte temporary restraining order.

DISPOSITION

other

CASES CITED

- Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County, 415 U.S. 423, 438-39 (1974)
- Tchienkou v. Net Trust Mortgage, 2010 WL 2375882, at *1 (W.D. Va. June 9, 2010)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:26-CV-194-BO-RN ANDREW R. SMITH,) Plaintiff,
} v.; ORDER THEODORE MERMIGOS, et al.; Defendants. On March 27, 2026, plaintiff, who proceeds pro se, initiated this action by filing a complaint, a motion for leave to proceed in forma pauperis, and an emergency motion for temporary restraining order and preliminary injunction.

[DE 1]; [DE 2]; [DE 3]; see also Fed. R. Civ. P. 65. Plaintiff seeks in part entry of a temporary restraining order immediately staying all child support enforcement activity. While temporary restraining orders are at times necessary, “[t]he stringent restrictions imposed by... Rule 65 [] on the availability of ex parte temporary restraining orders reflect the fact that our entire jurisprudence runs counter to the notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc.*

No. 70 of *Alameda Cty.*, 415 U.S. 423, 438-39 (1974). Accordingly, the procedural requirements of Rule 65(b) are strictly construed. See *Tchienkou v. Net Tr. Mortg.*, 2010 WL 2375882, at *1 (W.D. Va. June 9, 2010). Plaintiff has failed to demonstrate why emergency ex parte relief is warranted in this instance. See Fed. R. Civ. P. 65(b)(1)(B). His request for entry of a temporary restraining order is therefore DENIED.

SO ORDERED, this J day of April 2026. UNITED STATES DISTRICT JUDGE