

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
ARKANSAS, CENTRAL DIVISION

Joshua Bryan Wilkes v. AmeriSave Mortgage Corp. et al.

Wilkes · No. 4:26-cv-2-JM · Decided January 7, 2026

SUMMARY

The United States District Court for the Eastern District of Arkansas denied without prejudice Joshua Wilkes’s motion for an ex parte temporary restraining order seeking to halt a scheduled statutory foreclosure. The court held that Wilkes’s conclusory statements regarding notice efforts were insufficient under Federal Rule of Civil Procedure 65 to justify relief without notice and therefore did not reach the preliminary-injunction factors.

CASE DETAILS

COURT	United States District Court for the Eastern District of Arkansas, Central Division
JURISDICTION	United States District Court for the Eastern District of Arkansas, Central Division
DECIDED	January 7, 2026
DOCKET	4:26-cv-2-JM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for an ex parte temporary restraining order and preliminary injunction to stop a statutory foreclosure sale scheduled for January 7, 2026.
STANDARD OF REVIEW	A movant seeking a preliminary injunction must establish a probability of success on the merits, irreparable harm, a balance of harms favoring relief, and that an injunction serves the public interest. For an ex parte temporary restraining order, Federal Rule of Civil Procedure 65 requires certification of efforts to provide notice and an explanation why notice should not be required.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- injunctions
- foreclosure
- mortgages
- real estate
- civil procedure

PRACTICE AREAS

civil procedure

real estate

mortgages

foreclosure

injunctions

QUESTIONS PRESENTED

1. Whether Wilkes satisfied Federal Rule of Civil Procedure 65's requirements for an ex parte temporary restraining order without notice to the defendants.
2. Whether the court should evaluate the Dataphase preliminary-injunction factors before granting the requested ex parte temporary restraining order.

HOLDINGS

1. Wilkes's conclusory assertion that prior notice was impracticable was insufficient to justify entry of an ex parte temporary restraining order under Federal Rule of Civil Procedure 65.
2. Because Wilkes failed to justify ex parte relief without notice, the court declined to consider the Dataphase preliminary-injunction factors.

KEY QUOTATIONS

"This conclusory statement is wholly insufficient to justify the entry of a temporary restraining order without notice and an opportunity to be heard, in spite of the irreparable harm alleged."

"Joshua Wilkes' motion for an ex parte temporary restraining order (Doc. 8) is DENIED without prejudice."

FACTUAL BACKGROUND

Wilkes financed the purchase of a home in October 2024 and allegedly made none of the required monthly payments from November 2024 through July 2025. He challenged the mortgage's validity based generally on alleged violations of the National Housing Act and federal regulations governing FHA-insured mortgages. A statutory foreclosure sale was scheduled for January 7, 2026, and Wilkes sought to enjoin it, asserting that required FHA documents had not been properly completed and that the defendants had falsely certified compliance.

PROCEDURAL HISTORY

Joshua Bryan Wilkes filed a federal complaint challenging the validity of his mortgage and alleging violations of the National Housing Act and regulations governing FHA-insured mortgages. He simultaneously sought emergency injunctive relief to prevent a foreclosure sale. The district court denied the ex parte temporary restraining order without prejudice because Wilkes did not adequately justify proceeding without notice and an opportunity for the defendants to be heard.

DISPOSITION

other

CASES CITED

- S.J.W. ex rel. Wilson v. Lee's Summit R-7 Sch. Dist., 696 F.3d 771, 776 (8th Cir. 2012)
- Dataphase Sys., Inc. v. CL Sys., Inc., 640 F.2d 109, 113 (8th Cir. 1981)
- S & M Constructors, Inc. v. Foley Co., 959 F.2d 97, 98 (8th Cir. 1992)

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