

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Gerald Paul Hershfeldt v. Carleen Johnston, et al.

Hershfeldt · No. 26-cv-00342-NYW-CYC · Decided May 8, 2026

SUMMARY

The United States District Court for the District of Colorado overruled Gerald Paul Hershfeldt’s objections and adopted a magistrate judge’s recommendation denying his motion for a temporary restraining order and preliminary injunction. The court held that Hershfeldt failed to comply with applicable notice and conferral requirements and did not demonstrate a substantial likelihood of success on his claims concerning child-support enforcement, due process, and the Fair Credit Reporting Act. The court concluded that the record did not clearly establish that no valid child-support order existed.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Nina Y. Wang
JURISDICTION	United States District Court for the District of Colorado
DECIDED	May 8, 2026
DOCKET	26-cv-00342-NYW-CYC
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed de novo a magistrate judge's recommendation denying Plaintiff's motion for a temporary restraining order and preliminary injunction after Plaintiff filed objections.
STANDARD OF REVIEW	The district court conducts de novo review of properly objected-to portions of a magistrate judge's recommendation under Federal Rule of Civil Procedure 72(b)(3). Temporary restraining-order and preliminary-injunction relief is reviewed under the four-factor likelihood-of-success, irreparable-injury, balance-of-harms, and public-interest test; issuance is within the district court's discretion.
PRECEDENTIAL VALUE	unpublished district-court order

TOPICS

- injunctions
- civil procedure
- credit reporting
- due process
- equal protection

PRACTICE AREAS

civil procedure

civil rights

consumer protection

family law

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's recommendation after de novo review of Plaintiff's objections.
2. Whether Plaintiff was entitled to a temporary restraining order or preliminary injunction despite failing to comply with notice, conferral, and service requirements.
3. Whether Plaintiff established a substantial or strong likelihood of success on his constitutional and Fair Credit Reporting Act claims based on the alleged absence of a valid child-support order.

HOLDINGS

1. The district court overruled Plaintiff's objections and adopted the magistrate judge's recommendation after de novo review.
2. Plaintiff was not entitled to temporary restraining-order or preliminary-injunction relief because he failed to comply with applicable notice and conferral requirements and failed to demonstrate a substantial likelihood of success on the merits.
3. Plaintiff failed to establish a substantial likelihood of success on his FCRA and due-process claims because he did not show through clear and unequivocal evidence that no valid child-support order existed.

KEY QUOTATIONS

"Movants seeking a temporary restraining order or preliminary injunction must establish (1) a substantial likelihood of success on the merits, (2) irreparable injury to the movant, (3) that the threatened injury to the movant outweighs the injury to the party opposing the injunctive relief, and (4) that the injunction would not be adverse to the public interest." (Legal Standards, Section II)

"Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction Pursuant to Fed. R. Civ. P. 65 [Doc. 11] is DENIED." (Conclusion)

FACTUAL BACKGROUND

Gerald Paul Hershfeldt alleged that Defendants collected approximately \$173,004.42 in child support from his wages and bank accounts over roughly ten years without a valid child-support order and reported the alleged debt to credit-reporting agencies. He relied on state-court minute entries, including one adopting a separation agreement, parenting plan, and monthly child-support obligation and another stating that the court was unable to enter support orders because the children's Social Security numbers were missing. He sought an injunction requiring deletion or suppression of adverse credit tradelines and cessation of wage garnishment, tax intercepts, and license-suspension enforcement.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights and Fair Credit Reporting Act action concerning alleged child-support enforcement and credit reporting. He moved for a temporary restraining order and preliminary injunction. Magistrate Judge Cyrus Y. Chung recommended denial because Plaintiff failed to provide the required notice and failed to establish a strong likelihood of success on the merits. Plaintiff objected, Defendants responded, and the district court overruled the objections, adopted the Recommendation, and denied the motion.

DISPOSITION

other

CASES CITED

- United States v. One Parcel of Real Prop., 73 F.3d 1057, 1059-60 (10th Cir. 1996)
- Marshall v. Chater, 75 F.3d 1421, 1426-27 (10th Cir. 1996)
- Dominion Video Satellite, Inc. v. EchoStar Satellite Corp., 269 F.3d 1149, 1154 (10th Cir. 2001)
- Duvall v. Keating, 162 F.3d 1058, 1062 (10th Cir. 1998)
- Otero Sav. & Loan Ass'n v. Fed. Rsrv. Bank of Kan. City, 665 F.2d 275, 277 (10th Cir. 1981)
- O Centro Espirita Beneficiente Uniao Do Vegetal v. Ashcroft, 389 F.3d 973, 975 (10th Cir. 2004)
- Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal, 546 U.S. 418 (2006)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Murray v. City of Tahlequah, 312 F.3d 1196, 1199 n.3 (10th Cir. 2002)
- Dodson v. Bd. of Cnty. Comm'rs, 878 F. Supp. 2d 1227, 1236 (D. Colo. 2012)
- Garrett v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005)
- Bankston v. I.R.S., No. 08-cv-02233-WYD-MEH, 2009 WL 1810120, at *1 (D. Colo. May 19, 2009)

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