

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

Shakima P. Kelly v. Santander Consumer USA, Inc.

Kelly · No. C.A. No. 26-17-GBW · Decided January 9, 2026

SUMMARY

The United States District Court for the District of Delaware denied pro se Plaintiff Shakima P. Kelly's emergency motions for a temporary restraining order, preliminary injunction, and immediate release of a vehicle and personal property. The court found that Defendant had not been served, Plaintiff had not satisfied the notice-certification requirements for emergency relief, and the pleadings did not establish likely success on the merits or that an injunction would serve the public interest.

CASE DETAILS

COURT	United States District Court for the District of Delaware
WRITING FOR THE COURT	Gregory B. Williams
JURISDICTION	United States District Court for the District of Delaware
DECIDED	January 9, 2026
DOCKET	C.A. No. 26-17-GBW
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff sought a temporary restraining order, preliminary injunction, and immediate release of a vehicle and personal property in connection with her complaint. The district court denied the emergency motions.
STANDARD OF REVIEW	A preliminary injunction or temporary restraining order requires the plaintiff to establish likelihood of success on the merits, irreparable harm absent relief, absence of irreparable harm to the defendant, and that relief is in the public interest. A temporary restraining order without notice additionally requires specific facts in an affidavit or verified complaint showing immediate and irreparable injury and written certification concerning notice.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court memorandum order

TOPICS

- injunctions
- civil procedure
- consumer protection

PRACTICE AREAS

civil procedure

injunctive relief

consumer protection

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to a temporary restraining order without notice under Federal Rule of Civil Procedure 65(b)(1).
2. Whether plaintiff was entitled to a preliminary injunction or temporary restraining order under the applicable four-factor injunction standard.
3. Whether plaintiff's emergency motion for immediate release of her vehicle and personal property should be granted.

HOLDINGS

1. A temporary restraining order without notice was unavailable because the record did not show that plaintiff supplied the required certification of efforts to give notice or reasons why notice should not be required, and the record did not establish the required factual basis for immediate and irreparable injury.
2. Plaintiff was not entitled to a preliminary injunction or temporary restraining order because she failed to show a likelihood of success on the merits and that granting relief would serve the public interest.

KEY QUOTATIONS

“an extraordinary remedy that should be granted only if: (1) the plaintiff is likely to succeed on the merits; (2) denial will result in irreparable harm to the plaintiff; (3) granting the injunction will not result in irreparable harm to the defendant; and (4) granting the injunction is in the public interest”

“failure to establish any element in [Plaintiff's] favor renders a preliminary injunction inappropriate”

FACTUAL BACKGROUND

Plaintiff sought emergency injunctive relief concerning the release of a vehicle and personal property. The record did not show that defendant had been served, and plaintiff did not certify efforts to notify defendant or explain why notice should not be required. The court found that the complaint and emergency motions consisted of bald assertions and legal conclusions that did not demonstrate likely success on the merits or that an injunction would serve the public interest.

PROCEDURAL HISTORY

Plaintiff filed a complaint and emergency motions for a temporary restraining order and preliminary injunction and for immediate release of a vehicle and personal property. The court noted that defendant had not been served, plaintiff had not certified efforts to provide notice or reasons notice should not be required, and the motions and complaint did not show a likelihood of success on the merits or that an injunction would serve the public interest. The court denied both motions without reaching the remaining injunction factors.

DISPOSITION

other

CASES CITED

- NutraSweet Co. v. Vit-Mar Enterprises, Inc., 176 F.3d 151, 153 (3d Cir. 1999)
- In re Rockefeller Ctr. Props., Inc. Sec. Litig., 311 F.3d 198, 216 (3d Cir. 2002)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE
SHAKIMA P. KELLY,) Plaintiff, v. C.A. No. 26-17-GBW SANTANDER CONSUMER USA,
INC. Defendant. MEMORANDUM ORDER At Wilmington, this 9th day of January 2026, having
reviewed and considered pro se Plaintiff Shakima P. Kelly's emergency motion for temporary
restraining order and preliminary injunction (D.I.

4) and emergency motion for immediate release of vehicle and personal property (D.I. 5);
WHEREAS this Court generally only issues a preliminary injunction upon notice to the adverse
party, see FED. R. Crv. P. 65(a)(1); WHEREAS a temporary restraining order may be issued
without written or oral notice to Defendant or defense counsel, but Plaintiff must provide "specific
facts in an affidavit or verified complaint [which] clearly show that immediate and irreparable
injury, loss, or damage will result to [her] before [Defendant] can be heard in opposition," FED.

R. Civ. P. 65(b)(1)(A), and must "certify in writing any efforts made to give notice and the reasons
why it should not be required," FED. R. Civ. P. 65(b)(1)(B); WHEREAS a preliminary injunction
or a temporary restraining order is "an extraordinary remedy that should be granted only if: (1) the
plaintiff is likely to succeed on the merits; (2) denial will result in irreparable harm to the plaintiff;
(3) granting the injunction will not result in irreparable harm to the defendant; and (4) granting the
injunction is in the public interest," NutraSweet Co. v. Vit-Mar Enterprises, Inc., 176 F3d 151, 153
(3d Cir.

1999) ("NutraSweet IT"); WHEREAS the record does not reflect that Defendant has been served
in this case, and Plaintiff has not provided certification of efforts undertaken to inform Defendant of
her motion or reasons why such should not be required; and WHEREAS review of Plaintiff's
emergency motions (D.I. 4; D.I. 5) and the complaint (D.I. 2) do not suggest that Plaintiff is likely
to succeed on the merits, or that granting the injunction is in the public interest, because Plaintiff
throughout makes bald assertions and draws legal conclusions without sufficient supporting
factual allegations, which the Court is "not required to credit," In re Rockefeller Ctr.

Props., Inc. Sec. Litig., 311 F.3d 198, 216 (3d Cir. 2002); and WHEREAS the foregoing warrants
denial of Plaintiff's emergency motions without reaching the other elements because "failure to
establish any element in [Plaintiff's] favor renders a preliminary injunction inappropriate,"
NutraSweet II, 176 F.3d at 153, and the same standard applies for a temporary restraining order,

see id.; THEREFORE, IT IS HEREBY ORDERED that Plaintiff's emergency motion for temporary restraining order and preliminary injunction (D.I.

4) and emergency motion for immediate release of vehicle and personal property (D.I. 5) are DENIED. [fy The Honorable Gregory B. Williams United States District Judge