

NO. 19-1289

IN THE

Supreme Court of the United States

GEORGE ANDREW BENAVIDES, PLAINTIFF, APPELLANT

V.

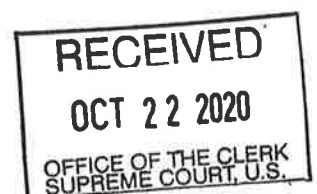
UNITED STATES ATTORNEY GENERAL WILLIAM BARR, et al

On Petition For Writ of Certiorari
To The United States Court of Appeals For The Fifth Circuit

EMERGENCY APPLICATION TO SAMUEL ANTHONY ALITO
JR, ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME
COURT OF THE UNITED STATES OF AMERICA

George Andrew Benavides, Pro se
1308 E. Common St, Suite 205
Mail Box 408
New Braunfels, Texas 78130
(210) 322-9328

September 30, 2020



NOW COMES, GEORGE ANDREW BENAVIDES as a movant and files this Emergency Application to the HONORABLE ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT, SAMUEL ANTHONY ALITO JR in compliance with the reporters guide to applications pending before The United States Supreme Court, page 19 and United States Supreme Court Rule 22. Application to Individual Justices. I am asking this court to correct the lower court's decision and grant the Emergency Temporary Restraining Order because my pending United States Supreme Court Case NO. 19-1289 is in jeopardy and my life is in irreparable danger. I am being retaliated against by the opposing counsel.

LOWER COURTS DECISIONS

United States District Court Western District of Texas San Antonio Division, Benavides v. Barr Case No 5:19-CV-440-DAE

June 19, 2020	Petitioners Motion For Emergency Temporary Restraining Order Filed
June 23, 2020	David Alan Ezra, Senior United States District Judge, denies Plaintiff's Motion for Emergency Temporary Restraining Order.
June 24, 2020	Plaintiff's Notice Of Appeal To The District Court.

United States Court Of Appeals For The Fifth Circuit, Benavides v. Barr, Case No. 20-50547


September 22, 2020	Circuit Judges For The Fifth Circuit Court of Appeals, Judges, COSTA, DUNCAN, and OLDHAM, Dismissed Emergency Temporary Restraining Order for writ of jurisdiction.
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CERTIFICATE OF SERVICE

I certify that on this 30th Day of September 30, 2020, service was made of a copy of the Application to Individual Justice, The HONORABLE ASSOCIATE JUSTICE SAMUEL ANTHONY ALITO JR, UNITED STATES SUPREME COURT and to Jeffrey B. Wall, Counsel of Record, Acting Solicitor General, United States Department of Justice in compliance United States Supreme Court Rule 22 and Rule 29 by United States Postal Service.

Jeffrey B. Wall
Acting Solicitor General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C 20530-0001

Attention: Honorable Associate Justice Samuel Anthony Alito Jr
United States Supreme Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543


George A. Benavides
1308 E. Common St, Suite 205
Mail Box 408
New Braunfels, Texas 78130
(210)322-9328

United States Court of Appeals
for the Fifth Circuit

No. 20-50547



Certified as a true copy and issued
as the mandate on Sep 22, 2020

Attest: *John W. Cayce*
Clerk, U.S. Court of Appeals, Fifth Circuit

GEORGE ANDREW BENAVIDES,

FILED

Plaintiff — Appellant 2 2020

versus

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

WILLIAM PELHAM BARR, UNITED STATES ATTORNEY GENERAL;
DONALD TRUMP, UNITED STATES PRESIDENT; UNITED STATES
DEPARTMENT OF JUSTICE; UNITED STATES FEDERAL BUREAU
OF INVESTIGATIONS; UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS; UNITED STATES DEPARTMENT OF
DEFENSE; UNITED STATES DEPARTMENT OF THE NAVY;
UNITED STATES OF AMERICA; OFFICE OF THE NAVAL
INSPECTOR GENERAL,

Defendants — Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:19-CV-440 -- JGE

Before COSTA, DUNCAN, and OLDHAM, *Circuit Judges.*

PER CURIAM:

This court must examine the basis of its jurisdiction on its own motion if necessary. *Hill v. City of Seven Points*, 230 F.3d 167, 169 (5th Cir. 2000). In

No. 20-50547

this civil rights case, the plaintiff filed a notice of appeal from an order denying a motion for a temporary restraining order.

“Federal appellate courts have jurisdiction over appeals only from (1) a final decision under 28 U.S.C. § 1291; (2) a decision that is deemed final due to jurisprudential exception or that has been properly certified as final pursuant to Fed. R. Civ. P. 54(b); and (3) interlocutory orders that fall into specific classes, 28 U.S.C. § 1292(a), or that have been properly certified for appeal by the district court, 28 U.S.C. § 1292(b).” *Askanase v. Livingwell, Inc.*, 981 F.2d 807, 809-10 (5th Cir. 1993). The order denying the motion for temporary restraining order is not a final order, *see Overton v. City of Austin*, 748 F.2d 941, 949 (5th Cir. 1984) (temporary restraining orders do not come within meaning of “injunction” in 28 U.S.C. § 1292(a)(1)), nor does it come within any of the other categories that would make it immediately appealable. Accordingly, the appeal is DISMISSED for want of jurisdiction.

FILED

SEP 22 2020

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY TEL. 504-310-7700
600 S. MAESTRI PLACE
Suite 115
NEW ORLEANS, LA 70130
DEPUTY CLERK

September 22, 2020

Ms. Jeannette Clack
Western District of Texas, San Antonio
United States District Court
655 E. Cesar E. Chavez Boulevard
Suite G65
San Antonio, TX 78206

No. 20-50547 George Benavides v. William Barr, et al
USDC No. 5:19-CV-440 -BAE

Dear Ms. Clack,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk

M Courseault


By: _____
Melissa B. Courseault, Deputy Clerk
504-310-7701

cc w/encl:
Mr. George Andrew Benavides

UNITED STATES DISTRICT COURT WESTERN DISTRICT
OF TEXAS SAN ANTONIO DIVISION

FILED

JUN 24 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

GEORGE ANDREW BENAVIDES

PLAINTIFF,

VS.

SA-19-CA-440-DAE


UNITED STATE ATTORNEY GENERAL

WILLIAM BARR, et, al.

RESPONDENT(S)

PLAINTIFF'S NOTICE OF APPEAL TO THE DISTRICT COURT

Notice is hereby given that, GEORGE ANDREW BENAVIDES, Plaintiff in the above-named case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from United States District Judge, David Ezra, Order denying Petitioner's Motion For Emergency Temporary Restraining Order entered in this action on the 23rd day of June, 2020


George A. Benavides, Pro se
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Mail Box 408
New Braunfels, Texas 78130
(210) 322-9328

CERTIFICATE OF SERVICE

I certify that on this 24th day of June, 2020, service was made of a copy of the foregoing Motion For Emergency Temporary Restraining Order by fax or by United States Postal Service on Noe J. Francisco, Counsel of Record, Solicitor General, United States Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

A handwritten signature in black ink, appearing to read "G. Benavides", is written over a horizontal line.

George A. Benavides, Pro se
1308 E. Common St, Suite 205
Mail Box 408
New Braunfels, Texas 78130
(210) 322-9328

GEORGE ANDREW BENAVIDES, §
§
Plaintiff, §
§
vs. §
§
UNITED STATES OF AMERICA, §
UNITED STATES PRESIDENT §
DONALD TRUMP, UNITED STATES §
DEPARTMENT OF THE NAVY, §
UNITED STATES FEDERAL §
BUREAU OF INVESTIGATIONS, §
UNITED STATES DEPARTMENT OF §
JUSTICE, UNITED STATES §
DEPARTMENT OF VETERANS §
AFFAIRS, and UNITED STATES §
DEPARTMENT OF DEFENSE, §
§
Defendants. §
§

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BACKGROUND

Plaintiff filed his original complaint on April 29, 2019. (Dkt. # 1.) In response to Magistrate Judge Bemporad's Order to Show Cause (Dkt. # 18), Plaintiff filed an amended complaint on October 11, 2019. (Dkt. # 24.) Plaintiff sought around \$1.5 million in damages based on allegations that, in 1993, doctors in the United States Navy implanted devices inside Plaintiff's teeth that intercept his thoughts and broadcasts those thoughts to the Government. (Dkt. # 24.) In his Report and Recommendation to this Court, Magistrate Judge Bemporad concluded that Plaintiff failed to state non-frivolous claims upon which relief may be granted and failed to provide substantial evidence supporting his motions for default judgment. (See Dkt. # 56.) Magistrate Judge Bemporad found that Plaintiff's response to the Court's original Order to Show Cause (Dkt. # 18) was "entirely repetitive of his original complaint" as it included "no additional details that would make his claim appear plausible on its face" and that the claims occurred outside the two-year statute of limitations period for civil rights claims against the Government. (Dkt. # 56 at 3–4.)

This Court adopted the Report and Recommendation and denied Plaintiff's eight motions for entry of default judgment, dismissing the case with prejudice as frivolous. (Dkt. # 71.) Plaintiff appealed, and the Fifth Circuit denied his petition for rehearing (Dkt. # 85), affirming this Court's judgment (Dkt. # 86).

Plaintiff now seeks a TRO “for the protection of evidence and documents and the safety of his life and immediate family and friends and illegal exposure to society and to the government.” (Dkt. # 87.) Plaintiff re-asserts the arguments brought to this Court’s attention in his previous filings and argues that he has met the legal requirements under Rule 65 of the Federal Rules of Civil Procedure. (Id.)

DISCUSSION

The Court finds that Plaintiff provides insufficient support to merit a TRO. To obtain a TRO, a plaintiff must establish that (1) there is a substantial likelihood that it will prevail on the merits; (2) there is a substantial threat that irreparable harm will result if the injunction is not granted; (3) the threatened injury to the plaintiff outweighs whatever damage the proposed injunctive relief would cause the defendant; and (4) the granting of the injunction is not adverse to the public interest. Anderson v. Jackson, 556 F.3d 351, 360 (5th Cir. 2009) (quoting Canal Auth. v. Callaway, 489 F.2d 567, 572 (5th Cir. 1974)). Normally, if a party cannot prove all four elements, a court must deny the injunctive relief since “[t]he decision to grant a preliminary injunction is to be treated as the exception rather than the rule.” Miss. Power & Light Co. v. United Gas Pipe Line Co., 760 F.2d 618, 621 (5th Cir. 1985).

Plaintiff fails to provide any reason or evidence as to why the Court should grant him such an exception. The Court previously found Petitioner's arguments frivolous, which weighs against the first element that a plaintiff must establish to obtain a TRO. The Court stands by its order dismissing this case and finds that Plaintiff's Motion for Emergency TRO should be denied.

CONCLUSION

In light of the foregoing, the Court **DENIES** Plaintiff's Motion for Emergency Temporary Restraining Order (Dkt. # 87).

IT IS SO ORDERED.

DATED: San Antonio, Texas, June 23, 2020.

David Alan Ezra
Senior United States District Judge

FILED

JUN 19 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

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SA-19-CA-440-DAE

**UNITED STATES ATTORNEY GENERAL
WILLIAM BARR, et al,
RESPONDENT(S)**

11

1. Petitioner brings this action to halt Respondent's unfair "spying" or illegal eavesdropping, wiretapping and torture by utilizing satellite and satellite weapons and tracking devices such as computers, smart phones, tv or tv services, cable services, tv media or tv shows, telephone, social media such as Twitter, Facebook, internet services such as Google, Yahoo, Samsung telephone and internet services, sprint telephone and internet services, T-

Mobile telephone services, automobile tracking devices or gps, human implant and tracking devices or utilizing neighbors living in the vicinity of me to spy or illegal eavesdrop or wiretap or use any torture weapons operated by space weapons or satellite weapons to manipulate my thoughts or thinking patterns. This behavior should stop immediately and always while this case is in progress.

2. The question in relation to this case is that the Respondents had no federal court order to legally spy, track or torture me since 1994. Why does the spying and torture continue after there is a court case in progress? See United States Supreme Court Case No. 19-1289 Benavides v. Barr
3. The Respondents should not be holding meetings of the "mind" by the United States Congress, or United States Senate, holding hearings or gatherings to illegally intercept my thoughts or ideas using satellites and satellite weapons, while I am asleep or awake or in my home or friends' home or someone else home. Neither should they be questioning immediately family or friends while this case is in progress in the United States Supreme Court Case No. 19-1289, George Andrew Benavides V. United States Attorney General William Barr, et. al.
4. The Respondents should not be destroying or tampering with federal evidence by tampering with my phones: Samsung model number SM-N96OU, or other sprint phones and application such as twitter or other applications to report crimes or write notes to federal authorities while this case is in progress as self-defense. See 18 U.S.C § 1512.
5. As a result of the foregoing, Defendants are engaged in ongoing violations of United States Constitution, The Espionage Act of 1917, 42 U.S.C. § 1983, 18 U.S.C. §242, 18 U.S.C. § 241, 18 U.S.C. §2511, 18 U.S.C. §2518,

18 U.S.C. §2510, 18 U.S.C. § 2516, 18 U.S.C. §2381, 8 U.S.C. § 2340(A)

6. The Petitioner therefore seeks a TRO:

- a) Temporarily restraining and enjoining Respondents from disclosing or gathering any protected information under the Fourth Amendment of the United States Constitution without first implementing reasonable safeguards to maintain and protect the privacy, security, confidentiality, and integrity of such protected information; such as a federal court order.
- b) Temporarily restraining order and enjoining Respondents disclosing or gathering or benefiting from any protected information that any Respondents disclosed prior to the date of entry of TRO and without having implemented reasonable safeguards to maintain and protect the privacy, security, confidentiality, and integrity of such protected information; such as a federal court order.
- c) Requiring Respondents and any person hosting or otherwise controlling any internet content, server, or website that contains protected information posted by me or on, behalf of any Respondents to immediately take steps to ensure that the protected information on any website, blog, or social media service is no longer viewable or accessible by person using the internet; prevent the alteration, destruction, or erasure of any internet content, servers, or websites that contain protected information posted by me or Respondents and implement reasonable safeguards to maintain and protect the privacy, security, confidentiality, and integrity of any protected information; such as a federal court order.
- d) Requiring Respondents to provide notification to each person whose protected information they disclose without implementing and using reasonable safeguards to maintain and protect the privacy, security, confidentiality, and integrity of such protected information.

The United States was established based on laws and policies to help regulate civil liberties of Americans. Procedures and laws were created, so that our government may not deprive any American without due process of the law. Common law was written and recorded so that our governments may not abuse the power of courts in America. If the United States Supreme Court has decided on a particular case involving the violation of a statutory law, then that law or complaint should not be brought to the attention of the U.S Supreme Court justice again. It should be up to the righteousness judicial conduct of a judge from a lower court to correct the behavior of any government agency who has violated the laws of the state or the laws of the United States Constitution. If a judge knowingly prevents the deprivation of your constitutional rights knowing that the complaint affects other Americans or society, then that judge should be punished and stripped of his duties of being a judge. A judge should not be in any court, if he has conflict in a particular case because of his or hers prejudice or investments in the stock market or his investment in any particular company who created the personal injury or crime to a particular case he or she is judging.

In 1993 I walked into the Marine Corps recruiting depot Meps station San Antonio, Texas and enlisted. It was during this time that the United States Federal government had legal duty to investigate or inspect my background before enlisting. It was during this time that I was approved to enlist in the United States Marines. I didn't enlist with an implant or tracking device inside of me, nor was I broadcasting the privacy of my life to society or government.

In 1994 while serving in the United States Marines during the Gulf War, the United States Navy without my consent, without a federal court order or without probable cause illegally spied on me. No one, while serving in the United States Military should be broadcasting to the enemy, government or society any military intelligence during a time of war. Once my career had ended in 1998 the United States Navy had a legal duty to cease the torture, spying or remove or take back all federal government property from me when my career had ended in the United

States Marine Corps. In this case the United States Navy neglected to do that, which is the basis of this complaint.

Since being discharged from the United States Marines in 1998 I had a legal duty stop the illegal actions conducted on me by the United States Navy since it involved military information. On May 15, 2000 I attempted to cease this illegal behavior by the United States Navy and the United States Department of Veterans Affairs. The United States Federal Judge at that time was Judge, Edward C. Prado and law clerk, Henry Bemporad who threw the court case out of court. If a judge knew that illegal spying was going on and it affected society as well as myself, then why didn't he hear or try the case in May of 2000? Because of judge Edward C. Prado decision to throw the case out of court, this only identified that I was mentally disturbed for filing a frivolous court case and left me know choice but to file a case with United States Department of Veterans Affairs. The DVA had a legal duty to investigate my case to see if the illegal spying and torturing was going on before issuing a compensation. Instead they wrongfully diagnose me as schizophrenia or delusional prism disorder and compensate me at One-hundred (%100). Since the DVA has wrongfully diagnose me and didn't investigate my complaint, then it would be my duty again to investigate why my case is not being investigated. In 2007 I met with FBI agent Gary Simons who told me that my complaint is not real and that he would not investigate my case. If United States Congressman and United States Senators are deprived from investigating a civil rights complaint brought to them by me. Then who has the legal duty to investigate those who are supposed to be investigating my complaint who violated the United States Constitution? Two United States Congressman were asked to investigate my case but where not allowed. Why?

Why is it that the United States Federal Government continue to neglect to continue to investigate my case but then leave it up to society and the government to breach my privacy and civil rights by projecting what I am thinking or doing to

society or the government on a daily basis? Isn't this a violation of my 4th amendment rights? isn't this a violation of my civil rights? Isn't this illegal eavesdropping and wiretapping without a federal court order? Isn't this a violation of the espionage act of 1917 that since 1994 during the gulf war the United States Navy until this present time still has not yet to stop the spying on me?

No government or judicial officer of any federal court or federal agency should neglect to stop a crime and tort that is in progress when a complaint is brought to his or her attention only to invest or manipulate the stock market or assist in any illegal dealing to save a company from investing in the illegal production of spying devices or tracking devices used on any American without due process of the law.

Since 1994 I have been violated of my civil rights and bribe to keep an illegal action quiet by the compensation of the United States Department of Veterans Affairs who wrongfully diagnosed me only to violate my constitutional rights to bar me from self-security and protection under 1st Amendment right to bear arms and protection. They have exposed my life and immediate family and friends to terrorism and immediate danger and it is unconstitutional.

No Federal Government should neglect to assist Americans on a federal civil rights complaint when brought to their attention only protect their federal government agencies from being punished or disciplined for violating the civil rights laws of American citizen.


No Federal government should be gathering and feeding off of my "broadcasted mind" to invade and gather illegal information to use against me when a complaint was filed and the Federal government neglected to assist me.

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner has provided actual notice to Respondents as of the time of making this motion, and has provided copies of all pleadings and papers filed in this action to date.

WHEREFORE, Petitioner respectfully request that this court grant this motion by entering TRO.

Dated: June 19, 2020


Respectfully submitted,


George Andrew Benavides, Pro se
1308 E. Common St, Suite 205
Mail Box 408
New Braunfels, Texas 78130
(210) 322-9328

CERTIFICATE OF SERVICE

I CERTIFY THAT ON THE 19TH DAY OF JUNE, 2020, SERVICE WAS MADE OF A COPY OF THE FOREGOING MOTION EMERGENCY TEMPORARY RESTRAINING ORDER BY FAX AND BY UNITED STATES POSTAL SERVICE ON NOE J. FRANCISCO, COUNSEL OF RECORD, SOLICITOR GENERAL, UNITED STATES DEPARTMENT OF JUSTICE, 950 PENNSYLVANIA AVENUE, NW, WASHINGTON, DC 20530-0001

Respectfully submitted,


George Andrew Benavides, Pro se
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