

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DONNA BERGERON,	*	CIVIL ACTION
ON BEHALF OF MINOR CHILD,	*	
AND	*	
CHRIS PHILLIPS	*	NO. 08-4380
	*	
VERSUS	*	SECTION "B"(4)
	*	
SCOTT PERRILLOUX	*	
JOHN T. GUZZARDO, SR.	*	
JOHN T. GUZZARDO, JR.	*	
J.T. & STELLA GUZZARDO, INC.	*	
AND JOHN DOE		

ORDER AND REASONS

IT IS HEREBY ORDERED that Plaintiffs' request for a temporary restraining order (Rec. Doc. 1) is **DENIED**. Plaintiffs have failed to meet the requirements for a temporary restraining order applied by the United States Court of Appeals, Fifth Circuit.¹

Plaintiffs have failed to demonstrate a likelihood of success on the merits, amongst other things, by admission of their son's complicity in the alleged scheme to drop criminal charges against Defendants in exchange for monetary consideration tantamount to obstruction of justice and other possible offenses.

For some instances, binding appellate precedent afford prosecutors civil immunity for violations of federal rights that arose from their prosecutorial decisions.²

¹ Nichols v. Alcatel USA, Inc., 532 F.3d 364, 372 (5th Cir. 2008).

² Disraeli v. Rotunda, 489 F.3d 628, 634 (5th Cir. 2007).

Plaintiffs have not demonstrated that irreparable harm will result if the injunction is not granted. While Plaintiffs have alleged that JOHN DOE threatened their son through communications with a third party relative, these allegations are speculative and conclusory; there is no prima facie showing that irreparable harm is imminent or likely.

Moreover, there is uncertainty as to whether a federal civil question exists in this matter. However, we shall refer this matter to the U.S. Attorney for whatever action he deems appropriate relative to potential federal criminal violations. 42 U.S.C. §1983 and 18 U.S.C. §1964(b) require more than conclusory allegations of a "color of law" conspiracy between non-immune state officials and private actors.

IT IS FURTHER ORDERED that all parties shall file written briefs no later than September 30, 2008 to address pertinent jurisdictional and immunity issues. Thereafter, a hearing will be set by the court.

New Orleans, Louisiana, this 17th day of September, 2008.

A handwritten signature in black ink, appearing to read 'Ivan L.R. Lemelle', written over a horizontal line.

IVAN L.R. LEMELLE
UNITED STATES DISTRICT JUDGE