

BELINPA PARKER-BROWN, ET AL

SUIT #721385 89999SEC. 24

VERSUS

19TH JUDICIAL DISTRICT COURT

THE STATE OF LOUISIANA, ET AL

PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

**PETITIONERS' MOTION FOR VIDEO PRETRIAL AND SCHEDULING
CONFERENCE IN LIEU OF PRELIMINARY INJUNCTION HEARING**

NOW INTO COURT comes Petitioners **BELINDA PARKER-BROWN, ZENA CRENSHAW
LOGAL AND ERROL VICTOR, SR.**, separately and *pro se*, and in support of this motion say
as follows:

I.

**Preliminary injunction hearing is presently scheduled via an
inapplicable procedure and will accordingly come before the Court
in a procedural posture unduly favoring the defendants to the Petitioners' great detriment**

1. On the 29th day of July, 2022, this Court entered its "ORDER ON REQUEST FOR A
TEMPORARY RESTRAINING ORDER" with "RULE SETTING A HEARING ON
REQUEST FOR A PRELIMINARY INJUNCTION". *See, 7/29/22 Order;*
2. Pursuant to said Order, each defendant is commanded to "show cause on the 11th day of
August, 2022, 10 0'clock am., why a preliminary injunction should not be issued enjoining
the State of Louisiana and the Honorable Judge Dennis Waldron to retrial of Errol Victor,
Sr. 'based on any matters for which he is fairly deemed acquitted'." *Id.*;
3. The Order further provides that "(o)n the **hearing of this rule**, proof may be adduced . . ."
Id. (emphasis added);
4. Perhaps the Court is harkening to "Ex parte and contradictory motions; rule to show cause"
of the Louisiana Code of Civil Procedure. *See, La. C.C.P. Art. 963;*
5. However, this civil action did not commence by motion. "An application to the court for
an order, **if not presented in some other pleading**, shall be by motion which, unless made

during trial or hearing or in open court, shall be in writing.” *La. C.C.P. Art. 961*. (emphasis added);

6. “(A)n application for injunctive relief (**such as the matter at hand,**) shall be by petition.” *See, La. C.C.P. Art. 3601 D*. (emphasis added);
7. “The seeking of a temporary restraining order or preliminary injunction is ancillary to an action for a permanent injunction” although seeking one or both provisional remedies by motion as part of some other action may warrant or precipitate a rule to show cause. *See, Box v. French Mkt. Corp.*, 798 So. 2d 184 at 186 (La.App. 4 Cir. 09/05/01). *Cf., La. C.C.P. Art. 963*;
8. Critical for present purposes, however, is that “a preliminary injunction is a procedural device, interlocutory in nature, designed to preserve the existing status pending a trial on the merits of the case.” *Box at 186*;
9. On its face, the Court’s referenced Order does not seem to contemplate or serve that goal. Corresponding proof may only speak to “why a preliminary injunction should **not** be issued”. *See, 7/29/22 Order*. (emphasis added). There is no intervening, separate application for preliminary injunction [as contemplated by the pleadings (*See, Pet. for Inj. Wherefore Clause, ¶ b., p 10*)] ensuring otherwise, voluntarily interposed by one or more Petitioners or per compulsory court order . . . for good reasons from each of the Petitioner’s perspective;

II.

Only by a preponderance of evidence gleaned through discovery can a preliminary injunction issue in this case

10. “To prevail on a hearing for a preliminary injunction, the petitioner must show by prima facie evidence that: (1) he will suffer irreparable injury, loss or damage if the injunction is not issued; (2) that he is entitled to the relief sought; and (3) that he is likely to prevail on the merits of the case. . . . **The standard of proof required for proving these elements**

differs ‘depending on whether the preliminary injunction sought is a prohibitory injunction or a mandatory injunction’.” *Hyman v. Puckett*, 193 So. 3d 1184 at 1190 (La.App. 4 Cir. 05/04/16). (emphasis added). (internal citations omitted);

11. The “jurisprudence has established that a mandatory preliminary injunction [...] has the same basic effect as a permanent injunction, and therefore may not be issued on merely a prima facie showing that the party seeking the injunction can prove the necessary elements...” . . . ‘(A) mandatory preliminary injunction is ‘proper only if it had been issued after a full evidentiary hearing where the standard of proof is by a **preponderance of the evidence**’.” *Id.* (emphasis added). (internal citations omitted);

12. This proceeding seeks to enjoin action under color of law, appearing . . .

- to be the product of a vindictive criminal prosecution based on a constitutionally prohibited standard, effectuated through illegal means including collusion between one or more prosecutors with private individuals including but not limited to lawyers acting as such and/or their respective client(s) as well as judicial officers acting in their respective official capacity to deliberately thwart proof of Victor’s actual innocence.

Pet. for Inj. ¶ 30, p 8;

13. While the Petitioners’ verified pleadings are arguably *prima facie* proof of that contention, and certainly confirm it is not manifestly ill-founded, neither Petitioner fathoms proving such weighty matters by a preponderance of the evidence without at least undertaking discovery pursuant to Louisiana Code of Civil Procedure, Articles 1351 through 1475;

14. The Petitioners will likely seek prohibitory and mandatory, injunctive relief. Worth noting is the Court’s characterization of this action as “PET-INJUNCTION-MANDAMUS-CIV” *See, Court Dkt – 7/25/22*. In other words, by all clear indications, the Petitioners and each of them are slated to prove their above quoted contention by a preponderance of the evidence with approximately two (2) weeks’ notice, without a stitch of discovery;

III.

**The Petitioners and each of them project needing
six (6) to nine (9) months from the date of this motion to complete discovery**

15. The Petitioners have asked this Court to, among other things, enjoin the defendants and each of them from in any way purporting to finalize and/or otherwise act in accord with the purported jury verdict interposed against Petitioner Errol Victor, Sr. on July 20, 2022, including but not limited to entering the sentencing phase of and/or sentencing him pursuant to *State of Louisiana v. Victor*, No. 2010-CR-2010 before the 40th Judicial District Court for the Parish of St. John the Baptist in the State of Louisiana, Division "B".
See, Pet. for Inj. Wherefore Clause, p 10-11. ;
16. It is the Petitioners' understanding that sentencing was postponed in the matter until September 9, 2022;
17. No matter their diligence, neither Petitioner can complete discovery, appropriate/essential in and for this case by September 9, 2022, not to mention the impossibility of them doing so by August 11, 2022;
18. In fact, the Petitioners and each of them project needing six (6) to nine (9) months from the date of this motion to complete that discovery;
19. Obviously the jurisdiction of this Court is vested in determining whether a violation of America's Double Jeopardy Clause ensued upon commencement of trial in *State of Louisiana v. Victor*, No. 2010-CR-2010 before the 40th Judicial District Court for the Parish of St. John the Baptist in the State of Louisiana, Division "B";
20. The Petitioners have yet to confirm a directly applicable "first file rule" for Louisiana state courts. Of course, "(w)here identical suits are pending in our State courts the trial judge must dismiss all but the first suit if the defendant so moves. LSA-C.C.P.Art. 531."

Goldblum v. Boyd, 267 So. 2d 610 at 612 (La.App. 2 Cir. 05/23/72). And the federal circuit serving Louisiana has specifically referenced a “first file rule” for its trial courts.¹

21. If not per some specific provision(s), as a matter of comity and/or given practical considerations, neither defendant is likely to attempt finalizing proceedings pursuant to *State of Louisiana v. Victor*, No. 2010-CR-2010 before the 40th Judicial District Court for the Parish of St. John the Baptist in the State of Louisiana, Division “B”, on or before August 11, 2022;

III.

The Petitioners and each of them appeal to the Court’s discretion to set this matter for video pretrial and scheduling conference in lieu of a preliminary injunction hearing

22. Due to vacation travel and lodging arrangements made months ago, Petitioner Crenshaw-Logal will be in Massachusetts on August 11, 2022 and unable to physically appear before the Court at any time on that date up to and including August 15, 2022;
23. For various practical reasons, the Petitioners and each of them are inclined to forego seeking a preliminary injunction and, instead, prepare for final trial of this matter;
24. Given all of the foregoing considerations, the Petitioners and each of them appeal to the Court’s discretion to set this matter for video pretrial and scheduling conference in lieu of a preliminary injunction hearing on August 11, 2022 at 10:00 am CT with adequate notice in advance as to how the parties are to join that proceeding electronically;

WHEREFORE, the Petitioners and each of them pray:

- a. that consistent with, albeit in slight variation from La. C.C.P. Art. 1551, the Court set this matter for video pretrial and scheduling conference in lieu of a preliminary injunction

¹ “In order to avoid duplicative litigation and piecemeal resolutions, a district court has the discretion to dismiss a suit which can be resolved in an action pending in another district court. *West Gulf Maritime Ass’n. v. ILA Deep Sea Local 24*, 751 F.2d 721, 729 (5th Cir. 1985). Pursuant to the ‘first-filed’ rule, the court first vested with jurisdiction over the common action is the more appropriate body to decide the issues. *Id.* at 729-30; *Merrill Lynch, Pierce, Fenner & Smith v. Haydu*, 675 F.2d 1169, 1174 (11th Cir. 1982) (‘In absence of compelling circumstances, the court initially seized of a controversy should be the one to decide the case.’). *Hickmon v. Sec’y*, 2007 U.S. Dist. LEXIS 48881, *1-2, 2007 WL 2010801.

hearing on August 11, 2022 at 10:00 am CT, or whatever date and time after August 15, 2022 but before September 9, 2022 that the Court deems convenient, with adequate notice in advance as to how the parties are to join the proceeding electronically;

- b. Should the Court be inclined to deny that relief, the Petitioners and each of them pray it cancel the presently scheduled Rule to Show Cause and allow its order of July 29, 2022 to otherwise expire although one or more of the Petitioners may need to again seek temporary restraint of the defendants from purporting to finalize the purported jury verdict interposed against Petitioner Errol Victor, Sr. on July 20, 2022, including but not limited to entering the sentencing phase of and/or sentencing him pursuant to *State of Louisiana v. Victor*, No. 2010-CR-2010 before the 40th Judicial District Court for the Parish of St. John the Baptist in the State of Louisiana, Division "B";
- c. The Petitioners and each of them further pray that their verified petition proceed in accord with the Louisiana Code of Civil Procedure and all applicable law without them or either of them being required to furnish security; and
- d. upon discovery and trial they be granted a permanent injunction enjoining the defendants from in any way purporting to finalize and/or otherwise act in accord with the purported jury verdict interposed against Petitioner Errol Victor, Sr. on July 20, 2022, including but not limited to entering the sentencing phase of and/or sentencing him pursuant to *State of Louisiana v. Victor*, No. 2010-CR-2010 before the 40th Judicial District Court for the Parish of St. John the Baptist in the State of Louisiana, Division "B", or in any way causing the Petitioners or either of them additional harm whether through violation(s) of one or more of their civil, constitutional, and/or human rights and/or otherwise; and
- e. further declaring that under the particular circumstances of this case at hand, retrial of Petitioner Errol Victor, Sr., is barred by what is referred to in America as the Double Jeopardy Clause. Plus, that the defendants and each of them have acted in violation of that provision upon instituting or facilitating institution of trial via *State of Louisiana v. Victor*,


No. 2010-CR-2010 before the 40th Judicial District Court for the Parish of St. John the Baptist in the State of Louisiana, Division "B", and are accordingly obliged to immediately release Victor from custody of the State of Louisiana and otherwise restore his liberty as if said prosecution never commenced; and

f. for costs of this action plus any and all other relief just and proper upon the premises.

IV.
VERIFICATION

The Petitioners and each of them affirm under penalties of perjury that all of their foregoing assertions of facts are true and correct to the best of their knowledge and belief.

Respectfully Submitted,

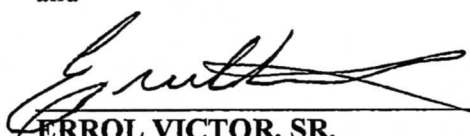


BELINDA PARKER-BROWN
1622 11th St.
Slidell, LA 70458
strongunitedfront@yahoo.com
p (985) 503-0626
f (985) 259-4749



ZENA D. CRENSHAW-LOGAL, J.D.
3274 Mount Gilead Road, SW
Atlanta, GA 30311
zdcrenshaw@gmail.com
p (985) 244-6465

and



ERROL VICTOR, SR.
c/o 1622 11th St.
Slidell, LA 70458
strongunitedfront@yahoo.com
p (985) 503-0626
f (985) 259-4749


Certificate of Service

Comes now Petitioner Belinda Parker-Brown and certifies that on the _____ day of August, 2022, a true and accurate copy of the foregoing PETITIONERS' MOTION FOR VIDEO

PRETRIAL AND SCHEDULING CONFERENCE IN LIEU OF PRELIMINARY INJUNCTION HEARING was served on each of the defendants by placing the same in the U.S. mail for first class delivery, adequate postage pre-paid and addressed as follows:

STATE OF LOUISIANA
c/o Jeffrey Martin Landry,
Louisiana Attorney General
Post Office Box 94005
Baton Rouge, LA 70804

THE HONORABLE DENNIS WALDRON,
Ad Hoc Judge for 40th Judicial
District Court for St. John the
Baptist Parish, State of Louisiana
2393 Highway 18
Edgard LA 70049



BELINDA PARKER-BROWN

PLEASE SERVE:

1. STATE OF LOUISIANA
c/o Jeffrey Martin Landry,
Louisiana Attorney General
1885 North Third Street
Baton Rouge, LA 70802

2. JUDGE DENNIS WALDRON,
Ad Hoc Judge for 40TH Judicial
District Court for St. John the
Baptist Parish, State of Louisiana
2393 Highway 18
Edgard LA 70049