

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. SA-22-CV-00047-JKP

ZARZAMORA HEALTHCARE LLC,
RITE-AWAY PHARMACY &
MEDICAL SUPPLY #2, and
JITENDRA CHAUDHARY,

Defendants.

ORDER DENYING INJUNCTIVE RELIEF

Before the Court are Plaintiff's *Motion for Preliminary Injunction* (ECF No. 2) and *Motion for Leave to File Exhibits Under Seal* (ECF No. 3). Plaintiff has not provided notice of these filings to any defendant. Having considered the complaint, the motions, and all matters of record, the Court denies the motion for preliminary injunction for failure of Plaintiff to satisfy the requirements for obtaining a preliminary injunction and the motion for leave to file exhibits under seal as moot.

The Federal Rules of Civil Procedure specifically govern preliminary injunctions. *See* Fed. R. Civ. P. 65. Plaintiff seeks preliminary injunctive relief under the Controlled Substances Act (CSA), 21 U.S.C. §§ 822(a), 843(f), to prevent Defendants from violating the CSA, including dispensing controlled substances, during the pendency of this litigation.

The Court denies Plaintiff's motion on procedural grounds. Rule 65(a)(1) expressly prohibits courts from issuing a preliminary injunction absent "notice to the adverse party." Because Plaintiff has provided no notice to defendants, the Court is precluded from issuing any preliminary

injunction. And, although Rule 65(b)(1) permits courts to “issue a temporary restraining order without written or oral notice to the adverse party or its attorney,” they may only do so if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Because Plaintiff has provided no written certification to comply with Rule 65(b)(1)(B), the Court has no authority to issue a temporary restraining order. On the facts here, these procedural infirmities require denial of Plaintiff’s motion.

For these reasons, the Court **DENIES** Plaintiff’s *Motion for Preliminary Injunction* (ECF No. 2) and **MOOTS** Plaintiff’s *Motion for Leave to File Exhibits Under Seal* (ECF No. 3).

IT IS SO ORDERED this 24th day of January 2022.


JASON PULLIAM
UNITED STATES DISTRICT JUDGE