

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

PAUL W. BERGRIN,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

MOTION FOR EMERGENT INJUNCTIVE RELIEF AND
APPOINTMENT OF COUNSEL (RECONSIDERATION).

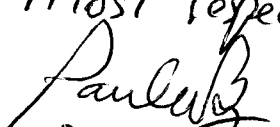
PLEASE BE INFORMED that Petitioner is applying to this Honorable Court to emergently, imminently and for good cause shown to judicially intervene and enjoin the actions of the government. Petitioner will rely on the attached true and sworn certification and video-conference if ordered.

Petitioner's constitutional and statutory rights to Due Process of Law in the assistance of preparation, defending, investigating and rightfully litigating his motions pursuant to 28 USC § 2255 and R. 33, Federal Rules of Criminal Procedure are contingent and dependent, on the Court's granting of this motion.

This motion, supported by the attached Certification raises substantial issues of fairness, equity, justice and defense of the Constitution.

It is the ardent and vociferous position of petitioner that the government's actions are in clear conflict of interest to the issues raised by Petitioner in both His 2255 and Rule 33 motion; this Court will be able to determine an retaliatory and biased action corroborated by the allegations of suborned perjury, misconduct and criminality as averred in the motions. As a matter of fact it was the governmental parties against whom these issues were raised, that sought the onerous conditions to be placed upon Petitioner. This is why Petitioner moved and sought recusal of these actors; to prevent this action.

Petitioner begs this Honorable Court to enjoin the Government's actions until the motions are decided. I rely on the attached sworn Certification.

Most respectfully,

PAUL W. BERGIN

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT
OF NEW JERSEY

PAUL W. BERGRIN,
Plaintiff,
Petitioner

v.

United States of America, et al
Defendants,
Respondents

CERTIFICATION OF PAUL W. BERGRIN

I, Paul W. Bergin, do hereby swear under the penalty of perjury that the following facts are true:

1. On August 22, 2016, I was placed in the Special Housing Unit, cmu, at Terre Haute, Indiana. I was only informed that it was due to investigation.
2. I have been diligently working on my case and assisting Court appointed attorney's Gibbons P.C. in my R. 33 motion. There is currently extensive and exhaustive investigation on-going and by Licensed Private Investigators

and with further assistance from licensed attorney Brian P. Mc Van. An attorney whom is assisting Gibbons and the investigation. He is duly licensed and in good standing in New Jersey and Retired Military officer.

On August 23, 2016, I was served with a Notice of Special

Administrative Measures, (SAM) and told that I am being transferred to the SAM unit at the ADX, Florence Colorado. An institution designed to hold the worst terrorists on Earth and wherein conditions of confinement are horrific.

7. The SAM alleged my crimes of conviction in 2013 and that on three (3) instances I;

(a). Used third parties to send intimidating messages to other inmates and directed acts of violence.

I have never been charged with any such conduct and it is baseless and meritless. No one has ever been touched, harmed and I vehemently deny it.

(b). That I threatened a co-conspirator with murder unless he recants his testimony, which is absurd.

(c). That I communicated with a government witness and attempted to bribe or coerce him to recant. It further alleged that I used "Special Mail" or legal mail to attempt this. (I cannot send legal mail), especially to another institution or another inmate, and this is complete fiction.

I am in a strict communications management unit wherein our contacts are extremely limited, every letter and call is limited and scrutinized meticulously and it is impossible to occur. There are microphones recording our communications (5)

made. what is insane and ludicrous about this false allegation is that there is not a scintilla of evidence I ever attempted to contact any of these individuals and I have the absolute right to be kept informed of the investigation.

Neither Gibbons nor I did anything wrong. yet the SAM application avers this as nefarious conduct. They were keeping me informed of the investigation.

(a). what is also important for the Court to consider is the fact that the Bureau of Prisons, in their copious scrutization opened this legal mail, copied it, sent it to the office of the U.S. Attorney and now it is being used improperly against me. It was Gibbons P.C. legal mail.

7. The allegations of threats were allegedly made over 2 years ago and resulted in designation and transfer of me to this onerous institution.

8. Now the government wants to retaliate, punish and sadistically torture me by sending me to a torture chamber; the ADX, Florence, Colorado. This is blatantly unjust, retaliatory and unconstitutional.

9. The SAM disallows contact with anyone except my

d. That I threatened a witness to sign a false affidavit. It never occurred.

5. What is extremely important for this Honorable Court to consider is the FACT (emphasis added), that the government used almost all these absurd, ~~and~~ baseless and meritless arguments to send and re-designate me to the CMU, Terre Haute. They all happened two or more years ago and I am at a strict Communications Management Unit.

(a). Now I am under the strictest scrutiny imaginable. All my communications are monitored, copied and read by government representatives. This includes incoming and outgoing, all calls are recorded and we are limited to two per week.

(b). I am not permitted to have contact with government witnesses nor their families and if they try to contact me, their communication is rejected; vice-versa.

6. The government's last assertion was that I attempted to ascertain the whereabouts of government witnesses; because they wrongfully accused me of receiving "Special Legal Mail" from Gibbons, that included the reports of CIA appointed investigators, retained by Gibbons that had the names and potential locations of contacts and interviews the investigators

by counsel and counsel's assistant, all alleged acts occurred over two years ago, and none while at the CMU.

13. I submit that the motion grounds which describe with particularity extreme government misconduct, including the subornation of perjury was the motive for their actions. This Court cannot permit prosecutors who have pending litigation which affects their careers and their agents, to get away with this action.

(a). The government must convince witnesses to recant their exculpatory evidence and wrongfully accuse me of misconduct to cover their actions. Their own misconduct.

14. It is respectfully submitted that you enjoin the government's actions pending a decision on the motions and, hopefully a hearing.

(a). The government will not be prejudiced by removing provisions of the SAM that will enable me to continue to work on my case at the CMU, use the restricted computer, communicate with my defense team and remain in "general population"; until the motions are decided. The appearance of impropriety mandates your action.

immediate family, which excludes my son-in-law Seth Goldberg whom is like my son, my nephew, Mathieu Davila, whom I raised

as my son and even other loved ones. I will be locked in a cell 23 hours a day and it would be impossible to assist on my Rule 33 and litigate my 2255. That is their objective.

The SAM precludes me having any contact with my attorney's, even ones whom are working Pro-Bono and professionally under the case. If Gibbons-wants contact they must be burdened with applications and a time consuming process, when we have time deadlines.

- 10. I have not been charged nor disciplined for any of this alleged and old misconduct, which resulted in my transfer to the CMU. I have never had an opportunity to defend these allegations.
- 11. I am in the SHU, devoid of legal materials to work my case and assist counsel. My materials will be boxed up, shipped and I will have no access to them, for months.

(a) my conditions of confinement are cruel and beyond belief. It is oppressively hot, in this tiny cell, there is no air, I cannot work, think nor defend myself. It is pure mental and emotional anguish.

- 12. The timing of the government's SAM and action must be troublesome to the Court. Except for a letter sent in the investigation

I pray this Honorable Court enjoins the government,
 pending a decision on the motions and appoints me
 Counsel on my 2255.

16. Since "time is of the essence" I am respectfully imploring
 imminent judicial intervention. I also firmly submit that
 there is not a scintilla of evidence that any individual
 was ever harmed nor threatened by me while I have been
 incarcerated; and that even the alleged threats (emphasis added),
 are more than two (2) years old and pre-dated my
 transfer to the CMU.

17. Since the date of my arrest which inflexibly remains in
 my mind, May 20, 2009, I have maintained my innocence.
 That is why I pleaded, begged and implored for the use of
 investigative polygraphs. Now is the perfect time again to
 use them; test the accuser and they will see that no one
 was ever threatened to do anything, ^{nor} intimidated or coerced. To
 force me to leave here, at this extraordinarily important time, in the defense of
 my constitutional rights, is a travesty of justice.

Most respectfully,
Paul W. Bertram
PAUL W. BERTRAM

Dated: August 25, 2016.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

PAUL W. BERGRIN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent

ORDER

COMES NOW, Petitioner, Paul W. Bergin, Pro Se
and respectfully moves this Honorable Court for an Order
enjoining the placing of Special Administrative Measures
(SAM) upon him, until the motions pursuant to 28 USC § 2255
and Rule 33, Federal Rules of Criminal Procedure are determined,
IT IS ON THIS _____ day of August 2016,
ORDERED AND ADJUDGED that the

Special Administrative Measures (SAM), imposed and implemented
Case 2:16-cr-00049-JLL Document 16 Filed 09/15/16 Page 12 of 12 PageID: 5959
against Paul W. Bergin, are hereby enjoined and held in
abeyance, pending a decision on his motions pursuant to
28 USC 2255 and Rule 33, Federal Rules of Criminal
Procedure

AND IT IS FURTHER ORDERED AND ADJUDGED that
Paul W. Bergin be released from the Special Housing Unit (SHU)
and strictly monitored in all his communications, so that he could
assist in his legal motions,

AND IT IS FURTHER ORDERED AND ADJUDGED
that there be no further acts of retaliation and retribution
against him by the New Jersey office of the United
States Attorneys, their representatives or the Department of
Justice.

JOSE L. LINARES
JUDGE UNITED STATES DISTRICT
COURT.