

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**

RUSSELL, et al.)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:19-cv-00226
)	(Class Action)
HARRIS COUNTY, TEXAS, et al.)	The Honorable Lee H. Rosenthal
)	U.S. District Judge
Defendants.)	
)	

NOTICE OF TEMPORARY RESTRAINING ORDER
AGAINST EXECUTIVE ORDER GA 13

Plaintiffs write to alert the Court that Governor Abbott’s Executive Order GA 13 (Dkt. 53-1) has been temporarily enjoined in Texas state civil district court as an unconstitutional infringement on judicial power by the Executive under Texas law.

On April 8, 2020, the Sixteen County Criminal Court at Law Judges in Harris County, the Texas Criminal Defense Lawyers Association, Capital Area Private Defender Service, Austin Criminal Defense Lawyers Association, and NAACP Texas sued Governor Greg Abbott and Attorney General Ken Paxton, seeking to enjoin enforcement of Executive Order GA 13, which purports to prohibit judges from issuing personal bonds to certain categories of people arrested in Texas. On April 10, 2020, the District Court of Travis County, Texas, 459th Judicial District, held oral argument on Plaintiffs’ Motion for Temporary Restraining Order (“TRO”) and issued a TRO, enjoining Defendants “from enforcing Executive Order GA-13 against judges.” Exhibit 1 (Temporary Restraining Order & Order Setting Hearing for Temporary Injunction). In an accompanying letter, the court confirmed that, even in times of crisis, judges have a “legal obligation to balance the interests of the public, individuals accused, but not convicted of criminal

offenses, and the victims of those alleged offenses,” that “[t]his exercise of judicial discretion falls squarely within the purview of the judicial branch,” and that it cannot “be taken away [] by the executive branch.” Exhibit 2.

Date: April 11, 2020

Respectfully Submitted,

/s/ Alec Karakatsanis

/s/ Elizabeth Rossi

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CERTIFICATE OF SERVICE

I certify that on April 11, 2020 a true and correct copy of this document properly was served on counsel of record via electronic filing in accordance with the USDC, Southern District of Texas Procedures for Electronic Filing.

/s/ Elizabeth Rossi

Elizabeth Rossi

**TEMPORARY RESTRAINING ORDER &
ORDER SETTING HEARING FOR TEMPORARY INJUNCTION**

1. After considering Plaintiffs' application for temporary restraining order, the pleadings, the affidavits, and arguments of counsel, the Court finds there is evidence that harm is imminent to Plaintiffs, and if the Court does not issue the temporary restraining order, Plaintiffs will be irreparably injured by the *ultra vires* and unconstitutional provisions of Executive Order GA-13.
2. Therefore, by this Order, the Court does the following:
 - a. Restrains Defendants from enforcing Executive Order GA-13 against judges.
 - b. Orders the Clerk to issue notice to Defendants that the hearing on Plaintiffs' application for temporary injunction is set for April 24, 2020, at ten o'clock a.m. (10:00 a.m.). The purpose of the hearing will be to determine whether this temporary restraining order should be made a temporary injunction pending a full trial on the merits.
 - c. Sets bond at \$0.

This Order expires on April 24, 2020.

SIGNED on April 10, 2020, at 4:55 pm



Honorable Lora Livingston



261ST DISTRICT COURT

LORA J. LIVINGSTON

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April 10, 2020

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Re: Cause No. D-1-GN-20-002034; *Texas Criminal Defense Lawyers Association v. Abbott et al.*; In the 459th District Court of Travis County, Texas

Dear Counsel:

I have considered the Plaintiffs' Application for Temporary Restraining Order, response, evidence, and arguments of counsel and hereby GRANT the application, as it applies to the independently elected judicial officers (the judges) who are Plaintiffs in this cause.

This Court fully respects the interests and powers of the Governor to meet and manage the extraordinary challenges this State faces in times of disaster. However, many of the orders in Executive Order GA-13 strip away the discretion of the judiciary and potentially subject its judges to mandamus or criminal action with little or no rationale in coping with the current health crisis. Instead, the order appears to address an unsubstantiated fear that the judges of the state will abandon their legal obligation to balance the interests of the public, individuals accused, but not convicted of criminal offenses, and the victims of those alleged offenses. The judges of this state were required to balance these very interests every day prior to the disaster declaration, and they are required to do so every day while the disaster persists, and they will be required to do so every day once the disaster declaration ends. This exercise of judicial discretion falls squarely within the purview of the judicial branch of our government. To be clear, the judges of this State may not abandon their responsibility in this regard, but neither may it be taken away from them by executive order. Therefore, the Court GRANTS the application for temporary restraining order as to the judges. Of course, Executive Order GA-13 also applies

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to any county judge, mayor, or emergency management director and nothing in this order is intended to address the constitutionality the Governor's action as it relates to those officials. That issue was not argued during the hearing and, of course, the parties may address that matter at the upcoming hearing on Temporary Injunction. Additionally, in this ruling, the Court need not reach other issues regarding standing of the organizational parties and the like and those issues may also be argued at the hearing on Temporary Injunction.

Given the nature of the case, the number of parties involved, and for reasons of judicial economy, I will refer this case to the Local Administrative Judge for his consideration of an assignment to a specific judge under Travis County Local Rules 2.6. I would expect Judge Sulak to contact you further should he decide to make such an assignment.

If you have any questions, please contact my Staff Attorney, Brent McCabe. Stay safe.

Sincerely,



Lora J. Livingston
Judge, 261st District Court

cc: Ms. Velva L. Price, Travis County District Clerk