

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

STATE OF ILLINOIS, <i>Plaintiff,</i> v. WILLIAM P. BARR, Attorney General of the United States., <i>Defendant.</i>	Civil Action No. 1:19-cv-3461 Hon. Harry D. Leinenweber
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NOTICE OF APPEAL

Notice is hereby given that Defendant William P. Barr, in his official capacity as Attorney General of the United States, appeals to the United States Court of Appeals for the Seventh Circuit from this Court's Final Judgment and Order entered on October 23, 2019 (Docket No. 27).

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

BRIGHAM J. BOWEN
Assistant Branch Director

/s/ Daniel D. Mauler
DANIEL D. MAULER
Virginia State Bar No. 73190
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20001
Tel: (202) 616-0773
Fax: (202) 616-8470
E-mail: dan.mauler@usdoj.gov
Counsel for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STATE OF ILLINOIS,

Plaintiff,

v.

**WILLIAM P. BARR, in his official
capacity as Attorney General of the
United States,**

Defendant.

Case No. 19 CV 3461

Judge Harry D. Leinenweber

FINAL JUDGMENT AND ORDER

This matter is before the Court on the parties' Stipulation. (Dkt. No. 26.) Pursuant to that Stipulation, and for good cause shown, the Court enters the following Order:

For the reasons set forth in this Court's Memorandum Opinion and Order in *City of Chicago v. Barr*, 1:18-cv-06859 (N.D. Ill. Sept. 19, 2019), Dkt. No. 80, and its Memorandum Opinion and Order in *City of Evanston v. Barr*, 1:18-cv-4853 (N.D. Ill. Sept. 26, 2019), Dkt. No. 93, and pursuant to Federal Rule of Civil Procedure 54(b), this Court enters a final judgment for Plaintiff on Count II of its Complaint (Dkt. No. 1). In so doing, the Court adopts herein the legal analysis set forth in its Memorandum Opinion and Order in *City of Chicago v. Barr* and its Memorandum Opinion and Order in *City of Evanston v. Barr* as though fully set forth herein. This Court finds that there is no just reason to delay the resolution of those claims.

Pursuant to Federal Rule of Civil Procedure 65, and for the reasons set forth in this Court’s Memorandum Opinion and Order in *City of Chicago v. Barr* and *City of Evanston v. Barr*, this Court hereby enters a permanent injunction precluding Defendant from enforcing the following challenged conditions as to any Byrne JAG grant issued to the State of Illinois for FY 2018 and all future years, including any subgrantees that receive their Byrne JAG award through a grant provided to the State of Illinois, regardless of whether those conditions are included in any award documents:

1. **The notice condition.** This condition requires the State or local government to “provide—as early as practicable... —advance notice to [the Department of Homeland Security (DHS)] of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.”

2. **The access condition.** This condition prohibits, with respect to the program or activity that is funded in whole or in part by the award, the State or local government from impeding agents of the United States acting under color of federal law “access to any State or local government (or government-contracted) correctional facility by such agents for the purpose” of “interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States.”

3. **The Section 1373 compliance condition.** This condition requires the Chief Legal Officer of the recipient jurisdiction to certify that the “program or activity” funded under the Byrne JAG award complies with 8 U.S.C. §§ 1373 (a) and (b).

4. **The Section 1644 compliance condition.** This condition requires the Chief Legal Officer to certify that the “program or activity” funded under the Byrne JAG award complies with 8 U.S.C. § 1644.

5. **The harboring condition.** This condition prohibits the recipient jurisdiction from making any “public disclosure... of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18

U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12—without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a)”; and

6. The information collection condition. This condition prohibits the recipient jurisdiction from making “a subaward to a State, a local government, or a ‘public’ institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as ‘Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE).’ All subrecipient responses must be collected and maintained by the recipient, consistent with regular document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.”

Litigation in this case, including litigation regarding Plaintiff’s remaining claims and Defendant’s obligation to respond to the Complaint, shall be stayed for 60 days pending the filing of a Notice of Appeal. If a party files a Notice of Appeal, then the matter shall remain stayed pending the final resolution of any appellate proceedings. If no Notice of Appeal is filed within 60 days of the date of this Order, then the parties shall file a status report within 30 days thereafter (within 90 days of the date of this Order).

IT IS SO ORDERED.



Harry D. Leinenweber, Judge
United States District Court

Dated: 10/23/2019

APPEAL,CUMMINGS,TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 6.3.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:19-cv-03461
Internal Use Only

State Of Illinois v. Barr
Assigned to: Honorable Harry D. Leinenweber
Cause: 28:2201 Declaratory Judgement

Date Filed: 05/23/2019
Date Terminated: 10/23/2019
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review
or Appeal of Agency Decision
Jurisdiction: U.S. Government
Defendant

Plaintiff

State Of Illinois

represented by **Jeffrey J Vandam**
Office of the Attorney General of
Illinois
Public Interest Counsel
100 W. Randolph
11th Floor
Chicago, IL 60601
(312) 814-1188
Email: JVanDam@atg.state.il.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Darren Bernens Kinhead
Office of the Attorney General
State of Illinois
100 West Randolph Street, 11th Floor
Chicago, IL 60601
312-814-5700
Email: dkinhead@atg.state.il.us
ATTORNEY TO BE NOTICED

V.

Defendant

William P. Barr
*in his official capacity as Attorney
General of the United States*


represented by **Andrew Marshall Bernie**
United States Department of Justice,
Civil Division, Federal
1100 L Street NW
Washington, DC 20005

(202) 616-8488
Email: andrew.m.bernie@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Daniel Duane Mauler
U.S. Department of Justice
1100 L Street, NW
Washington, DC 20005
(202) 616-0773
Email: dan.mauler@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

AUSA - Chicago
United States Attorney's Office (NDIL - Chicago)
219 South Dearborn Street
Chicago, IL 60604
Email:
USAILN.ECFAUSA@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/23/2019	<u>1</u>	COMPLAINT filed by State Of Illinois; Filing fee \$ 400, receipt number 0752-15857374.(Vandam, Jeffrey) (Entered: 05/23/2019)
05/23/2019	<u>2</u>	CIVIL Cover Sheet (Vandam, Jeffrey) (Entered: 05/23/2019)
05/23/2019	<u>3</u>	ATTORNEY Appearance for Plaintiff State Of Illinois by Jeffrey J Vandam (Vandam, Jeffrey) (Entered: 05/23/2019)
05/23/2019	<u>4</u>	NOTICE of Claims of Unconstitutionality by State Of Illinois (Vandam, Jeffrey) (Entered: 05/23/2019)
05/23/2019		CASE ASSIGNED to the Honorable Marvin E. Aspen. Designated as Magistrate Judge the Honorable Sheila M. Finnegan. Case assignment: Random assignment. (lma,) (Entered: 05/23/2019)
05/23/2019	<u>5</u>	ATTORNEY Appearance for Plaintiff State Of Illinois by Darren Bernens Kinhead (Kinhead, Darren) (Entered: 05/23/2019)
05/24/2019		SUMMONS Issued as to William P. Barr(mc,) (Entered: 05/24/2019)
05/24/2019	<u>6</u>	SUMMONS Returned Executed by State Of Illinois as to William P. Barr on 5/24/2019, answer due 6/14/2019. (Kinhead, Darren) Modified on 5/28/2019 (ek,). (Entered: 05/24/2019)
05/28/2019	<u>7</u>	MINUTE entry before the Honorable Marvin E. Aspen: Initial status hearing is set for 6/27/2019 at 10:30 a.m. Mailed notice (ags,) (Entered: 05/28/2019)

06/04/2019	8	EXECUTIVE COMMITTEE ORDER: Case reassigned to the Honorable Harry D. Leinenweber for all further proceedings. Honorable Marvin E. Aspen no longer assigned to the case. Signed by Executive Committee on 6/4/2019. (las,) (Entered: 06/05/2019)
06/04/2019		(Court only) Related cases: Create association to 1:18-cv-06859. (las,) (Entered: 06/05/2019)
06/05/2019	9	MINUTE entry before the Honorable Marvin E. Aspen: The status hearing set for 6/27/2019 is stricken. Mailed notice (ags,) (Entered: 06/05/2019)
06/10/2019	10	MINUTE entry before the Honorable Harry D. Leinenweber: Status hearing set for 8/22/2019 at 9:00 AM. Mailed notice(maf) (Entered: 06/10/2019)
07/23/2019	11	MOTION by Defendant William P. Barr for extension of time <i>to respond to Complaint</i> . (Mauler, Daniel) (Entered: 07/23/2019)
07/23/2019	12	ATTORNEY Appearance for Defendant William P. Barr by Daniel Duane Mauler (Mauler, Daniel) (Entered: 07/23/2019)
07/23/2019	13	MINUTE entry before the Honorable Harry D. Leinenweber: Unopposed motion for extension of time to 7/30/19 to answer or otherwise plead 11 is granted. Mailed notice(maf) (Entered: 07/23/2019)
07/29/2019	14	ATTORNEY Appearance for Defendant William P. Barr by Andrew Marshall Bernie (Bernie, Andrew) (Entered: 07/29/2019)
07/29/2019	15	MOTION by Defendant William P. Barr for leave to file excess pages (Bernie, Andrew) (Entered: 07/29/2019)
07/30/2019	16	MINUTE entry before the Honorable Harry D. Leinenweber: Unopposed motion for leave to file excess pages 15 is granted. Mailed notice(maf) (Entered: 07/30/2019)
07/30/2019	17	MOTION by Defendant William P. Barr to dismiss for lack of jurisdiction <i>and for failure to state a claim</i> (Bernie, Andrew) (Entered: 07/30/2019)
07/30/2019	18	MEMORANDUM by William P. Barr in support of motion to dismiss/lack of jurisdiction 17 <i>and for failure to state a claim</i> (Attachments: # 1 Defendant's Request for Judicial Notice)(Bernie, Andrew) (Entered: 07/30/2019)
07/30/2019	19	NOTICE of Motion by Andrew Marshall Bernie for presentment of motion to dismiss/lack of jurisdiction 17 before Honorable Harry D. Leinenweber on 8/8/2019 at 09:30 AM. (Bernie, Andrew) (Entered: 07/30/2019)
08/05/2019	20	MOTION by Plaintiff State Of Illinois to stay / <i>Plaintiff's Unopposed Motion to Stay Briefing on Motion to Dismiss</i> (Vandam, Jeffrey) (Entered: 08/05/2019)
08/05/2019	21	MINUTE entry before the Honorable Harry D. Leinenweber: Plaintiffs' unopposed motion to stay briefing 20 is granted. The Court will not set a briefing schedule on Defendant's motion to dismiss 17 until the parties appear for the status hearing on 8/22/19 at 9:00 a.m. Accordingly, presentment of the motion to dismiss on 8/8/19 is stricken as moot. Mailed notice(maf) (Entered: 08/05/2019)

08/20/2019	<u>22</u>	MOTION by Plaintiff State Of Illinois for extension of time to file response/reply as to motion to dismiss/lack of jurisdiction <u>17</u> (Kinkead, Darren) (Entered: 08/20/2019)
08/20/2019	<u>23</u>	MINUTE entry before the Honorable Harry D. Leinenweber: Joint motion to stay the briefing on the motion to dismiss <u>22</u> is granted. Status hearing set for 8/22/19 is vacated. The Court will set a future status at a later date. Mailed notice(maf) (Entered: 08/20/2019)
09/19/2019	<u>24</u>	MINUTE entry before the Honorable Harry D. Leinenweber: Status hearing set for 10/1/2019 at 9:00 AM.Mailed notice(maf,) (Entered: 09/19/2019)
10/01/2019	<u>25</u>	MINUTE entry before the Honorable Harry D. Leinenweber: Status hearing held. Parties advised the Court that they have agreed in principle to a stipulated judgment, given the Court's recent rulings in Evanston v. Barr, No. 18-cv-4853, and Chicago v. Barr, No. 18-cv-6859. Parties shall submit such stipulation and proposed order on or before 10/15/19. Mailed notice(maf) (Entered: 10/01/2019)
10/15/2019	<u>26</u>	STIPULATION <i>and Proposed Order</i> (Attachments: # <u>1</u> Text of Proposed Order)(Vandam, Jeffrey) (Entered: 10/15/2019)
10/23/2019	<u>27</u>	Enter final judgment order. See detailed order within. Signed by the Honorable Harry D. Leinenweber on 10/23/19: Mailed notice(maf) (Entered: 10/23/2019)
10/23/2019	<u>28</u>	MINUTE entry before the Honorable Harry D. Leinenweber: The Court denies Defendant's motion to dismiss <u>17</u> as moot, given the Stipulation that the parties filed. Mailed notice(maf) (Entered: 10/23/2019)
10/23/2019		***Civil Case Terminated. (maf,) (Entered: 12/18/2019)
12/20/2019	<u>29</u>	NOTICE of appeal by William P. Barr regarding orders <u>27</u> Receipt number: y (Mauler, Daniel) (Entered: 12/20/2019)
01/13/2020	<u>30</u>	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal <u>29</u> (gcy,) (Entered: 01/13/2020)