

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Case No. 25-1950

MARVIN D. TUTT,
Plaintiff-Appellant,

v.

STATE OF MARYLAND, et al.,
Defendants-Appellees.

On Appeal from the United States District Court
for the District of Maryland
Case No. 8:25-cv-02006-DKC

**APPELLANT'S EMERGENCY MOTION FOR
INJUNCTIVE RELIEF PENDING APPEAL, EXPEDITED
CONSIDERATION, AND SANCTIONS FOR FRAUD ON
THE COURT AND OBSTRUCTION OF JUSTICE**

Plaintiff-Appellant Marvin D. Tutt, proceeding pro se, in the form of a pauper, respectfully files this Emergency Motion pursuant to Fed. R. App. P. 8 and 27, and this Court's inherent power to sanction. This motion replaces and supersedes Appellant's prior "MOTION... to amend/correct... to remand" (Dkt. Entry 5, filed

Sept. 22, 2025), which should be terminated as moot upon consideration of this more urgent and comprehensive motion.

Appellant requests immediate intervention to halt ongoing, unconstitutional actions by Appellees that are causing catastrophic and irreparable harm.

The emergency stems from Appellees' ongoing, fraudulent garnishments, which are extracting \$560 every month from Appellant's \$0 actual income. This theft is based on demonstrably false "phantom income" data that Appellees refuse to correct, despite 18 months of notice. This action is not merely illegal; it is retaliatory and designed to prevent Appellant from pursuing his federal rights.

This motion is based on the overwhelming likelihood of success on the merits and newly discovered evidence obtained via the Maryland Public Information Act (PIA). This new evidence proves a continuing conspiracy, active obstruction of justice by the Maryland Attorney General's Office, and a bad-faith "shell game" intended to defraud this Court by concealing critical evidence.

Appellant is suffering catastrophic, irreparable harm daily. He requires immediate relief to survive.

RELIEF REQUESTED

Appellant urgently requests this Court issue an Order granting the following:

I. Immediate Relief (Emergency)

- 1. Temporary Restraining Order/Preliminary Injunction:** An immediate order pursuant to FRAP 8, IMMEDIATELY CEASING all garnishments and collection activities by Appellees (State of Maryland, Charles County Child Support Administration (CSA), et al.) pending the final resolution of this appeal.
- 2. Immediate Release of Seized Assets:** An order compelling Appellees to IMMEDIATELY RELEASE Appellant's federal tax refund, which is being illegally held based on the same fraudulent calculations at issue in this case. This refund must be released directly to Appellant Marvin D. Tutt, not to any "custodial" entity.
- 3. Evidence Preservation Order:** An order compelling all Appellees and their agents (including the Governor's Office, the Department of Budget and Management, and the OAG) to preserve ALL records related to Appellant and this litigation.
- 4. Expedited Decision:** An order expediting this appeal for a decision within 30-60 days due to the emergency nature of the ongoing financial harm and

constitutional violations.

II. Substantive Relief

- 1. Reverse and Remand with Instructions:** An order that, upon reversal of the district court's dismissal, the case be remanded with specific instructions to GRANT APPELLANT LEAVE TO AMEND his complaint to incorporate the newly discovered evidence of fraud and obstruction and to update the defendant list accordingly.
- 2. Mandamus Relief:** An order compelling the U.S. Department of Labor (DOL) to respond to Appellant's formal complaint regarding Appellees' violations of the Consumer Credit Protection Act (CCPA) and compelling Maryland agencies (including the PAO) to provide a substantive response to Appellant's outstanding PIA requests.
- 3. Sanctions & Remand Instructions:** A finding that Appellees have engaged in obstruction and fraud on the court, and an order that, upon reversal, the district court shall:

- Appoint a Special Master (at Appellees' expense) to oversee discovery into the conspiracy and obstruction.
 - Impose monetary sanctions and an adverse inference for Appellees' bad-faith concealment and "no records" claims.
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ARGUMENT

Relief under FRAP 8 is warranted when the movant shows (1) a strong likelihood of success on the merits, (2) irreparable harm if the stay is not granted, (3) the balance of equities tips in his favor, and (4) the injunction is in the public interest. *Winter v. NRDC, Inc.*, 555 U.S. 7 (2008). Appellant meets every factor.

I. Irreparable Harm is Immediate, Catastrophic, and Ongoing

This is not a theoretical dispute. Appellant is being financially destroyed right now.

1. Fraudulent Garnishments: As documented in the record (ECF No. 1, ¶¶ 89-93), Appellees are garnishing \$560 per month based on a "phantom income" of \$82,000 from a federal contracting job Appellant lost in March 2024. Appellant's actual income is \$0. Appellees know this data is false—Appellant has notified them repeatedly for 18 months, and their own emails (Oct. 23, 2025, R. Hopkins-Matos Email) confirm they are aware of

the dispute yet continue to collect. This ongoing theft has led to the denial of SNAP benefits, Medicaid, and has pushed Appellant to the brink of homelessness. This is the definition of irreparable harm.

2. Illegal Seizure of Tax Refund: Appellees are holding Appellant's federal tax refund hostage, explicitly admitting it is based on the same fraudulent calculations at issue in this appeal. This constitutes an illegal seizure without a valid basis, retaliation for exercising federal rights, and is direct evidence of Appellees' consciousness of guilt. Appellant needs this money for basic survival.

II. Appellant Has a Strong Likelihood of Success on the Merits

The district court's 48-hour dismissal was a catastrophic legal error built on false premises.¹ Appellant's Opening Brief details over 36 reversible errors. The most glaring include:

- **Fatal Jurisdictional Contradiction:** The court simultaneously claimed it lacked jurisdiction (Domestic Relations Exception) and was abstaining from jurisdiction (Younger Abstention). This is a logical and legal impossibility.

A court cannot abstain from jurisdiction it does not possess.

- **Misapplication of Younger Abstention:** Younger was inapplicable because the state proceedings had concluded (June 18, 2025) before the federal complaint was filed (June 23, 2025). The state court only "resurrected" its case after the federal dismissal, proving retaliatory coordination.
- **Misapplication of Domestic Relations Exception:** The exception does not apply to federal question (§ 1983) claims against government agencies for fraud and constitutional violations, especially after the only private family member was dismissed with prejudice (ECF No. 26). *Ankenbrandt v. Richards*, 504 U.S. 689 (1992).
- **Violation of Mandatory Federal Law:** The district court (Judge Chuang) violated the mandatory, non-discretionary command of 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4(c)(3) by ordering an in forma pauperis plaintiff to personally serve 8 defendants at his own expense, rather than ordering the U.S. Marshal to do so. This "impossible" Case Management Order (ECF No. 12) was a structural denial of court access.

III. NEWLY DISCOVERED EVIDENCE: A Coordinated Conspiracy to Obstruct Justice and Commit Fraud on the Court

The district court's errors were not merely negligent; they were the product of a coordinated effort to shield state actors. Newly discovered evidence, obtained after the dismissal, proves this conspiracy is active, ongoing, and rises to the level of Fraud on the Court. (See attached Addendum of Exhibits, hereafter "Ex. A," "Ex. B," etc.)

A. The OAG/PAO "Shell Game" (Direct Obstruction & Fraud on the Court)

Appellant has now documented a deliberate, bad-faith "shell game" by state agencies to conceal evidence. (See Addendum, Ex. A: OAG/PAO Correspondence).

- **Fact 1 (OAG, Sept. 3, 2025):** The Maryland Attorney General's Office (OAG) formally withheld records from Appellant, claiming the records were non-disclosable because they were "submitted to the Public Access Ombudsman (PAO)."

- **Fact 2 (PAO, Nov. 13, 2025):** The PAO, in a formal response, directly contradicted the OAG, stating: "We reviewed your PIA request and have and determined that we do not have any records that reference you."
- **Fact 3 (PAO, Nov. 15, 2025):** After Appellant highlighted this contradiction, the PAO's new automatic reply now states: "Due to a recent increase in mediation requests, the Office may need additional time... [we will] place you in the Ombudsman's queue."

Analysis: Both state agencies cannot be telling the truth. This is a documented lie.

- If the OAG was truthful, then the PAO's "no records" claim is a direct falsehood and an act of spoliation.
- If the PAO was truthful, then the OAG used a pretextual lie to illegally withhold records. In either case, agents of the Appellees have been caught in a demonstrable lie to obstruct a federal appeal. This is a fraud on this Court.

B. The Governor's "Emergency" Buyout (Obstruction)

- On June 23, 2025, Appellant filed his 66-page federal Verified Complaint (ECF No. 1), alleging a massive, multi-agency conspiracy.

- On June 24, 2025—less than 24 hours later—Governor Wes Moore's administration announced an "emergency" Voluntary Separation Program (VSP).

Analysis: The timing is not a coincidence. It is *prima facie* evidence of obstruction. (See Addendum, Ex. B: Fiscal Policy Analysis of VSP). This VSP, announced in direct response to Appellant's lawsuit, serves to: (1) allow potentially liable state employees to "disappear" from their agencies, frustrating discovery; (2) destroy evidence (e.g., "routine" purging of separated employees' emails); and (3) create a pretext for the state's actions.

C. State Court's Complicity (Consciousness of Guilt)

At a state court hearing on October 15, 2025, when Appellant questioned state court Judge Greer about the basis for the hearing and any coordination with the federal courts or OAG, Judge Greer fled his own courtroom after being unable to answer basic jurisdictional questions. This act of flight from the bench is a *de facto* admission of complicity.

D. Ongoing Agency Stonewalling (Continuing Violation)

Appellant's Oct-Nov 2025 emails with DHS/CSA (R. Hopkins-Matos) show that to this day, the agencies are actively stonewalling his requests for the source of the fraudulent \$82,000 income data, proving the violation is ongoing.

IV. The Balance of Equities and Public Interest Demand Relief

- **Balance of Equities:** The harm to Appellant is infinite and immediate: loss of all income, denial of food (SNAP) and healthcare (Medicaid), and the inability to secure housing. The "harm" to the State is zero—it would merely be enjoined from collecting a fraudulent debt that is the subject of the appeal. The balance overwhelmingly favors Appellant.
- **Public Interest:** The public interest is profoundly served by:
 1. Stopping state agencies from using demonstrably fraudulent data to garnish citizens.
 2. Ensuring the integrity of the federal judiciary and its accessibility to pro se IFP litigants.
 3. Exposing and sanctioning a coordinated, multi-branch government conspiracy.

¹ As of the filing of this motion (November 15, 2025), a review of this Court's docket (Case No. 25-1950) confirms that no Appellee has entered an appearance in this appeal. Furthermore, no responsive brief has been filed to Appellant's Informal Opening Brief (Dkt. Entry 4, filed Sept. 8, 2025), and no response has been filed to Appellant's prior Motion (Dkt. Entry 5, filed Sept. 22, 2025). Appellant's substantive claims of ongoing fraud and constitutional violations, therefore, stand entirely unrebutted before this Court. I must be clear, this is no mistake. It is a part of the larger conspiracy to deprive American citizens of our constitutional rights. This procedural trap can not be successfully used to dismiss federal claims.

CERTIFICATE OF SERVICE

I hereby certify that on this **15th day of November, 2025**, I filed the foregoing **EMERGENCY MOTION FOR INJUNCTIVE RELIEF** (including the Addendum of Exhibits) with the Clerk of the Court via the CM/ECF system.

Because no Appellee has entered an appearance in this appeal, ECF notification will not be sent. I therefore certify that I will serve a true and correct paper copy on all parties listed below by depositing said copies in the United States first-class mail, postage prepaid, on the **next business day, November 17, 2025**, addressed to:

Counsel for Appellees Charles County Child Support Administration, Charles County Department of Social Services, Charles County, Maryland, and the State of Maryland **Maryland Attorney General's Office 200 St. Paul Place Baltimore, MD 21202**

Appellee Shara Gabrielle Hendler, Esq. **500 N. Calvert St Ste 406 Baltimore, MD 21202**

Appellee Andrea Khoury **c/o Charles County Circuit Court 200 Charles Street La Plata, MD 20646**

Appellee Mistey L. Metzgar **c/o Charles County Circuit Court 200 Charles Street La Plata, MD 20646**

Appellee Theodore D. Chuang **c/o Clerk of the Court U.S. District Court for the District of Maryland 6500 Cherrywood Lane Greenbelt, MD 20770**

/s/ Marvin D. Tutt Marvin D. Tutt

CONCLUSION

WHEREFORE, for all the foregoing reasons, Appellant Marvin D. Tutt respectfully requests this Court issue an EMERGENCY ORDER granting all relief requested herein, including an immediate injunction to stop all garnishments, the release of his tax refund, an evidence preservation order, expedited consideration, and instructions to the district court to permit amendment upon remand.

Respectfully submitted,

/s/ Marvin D. Tutt

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