IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FENICIA REDMAN, on behalf of her minor child *Plaintiff, pro se*	:	**CIVIL ACTION**
v.	:	**NO. 22-3389**
THOMAS WESTERMAN WOLF, *et al.* *Defendants*	:	

ORDER

AND NOW, this 29th day of August 2022, upon consideration of Plaintiff's *motion for emergency injunctive relief*, [ECF 3], and the allegations in the complaint, [ECF 1], it is hereby **ORDERED** that the motion is **DENIED**.[1]

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[1] Plaintiff Fenicia Redman ("Plaintiff"), proceeding *pro se* and on behalf of her minor child, filed a complaint against numerous defendants, including Pennsylvania Governor Thomas Wolf and various administrators at her minor child's public school district, Great Valley School District (collectively, "Defendants"). In the complaint, Plaintiff essentially seeks an order directing the removal of various publications from all public schools in the United States that, she purports, depict obscene, sexually explicit material. Plaintiff contemporaneously filed the underlying motion for emergency injunctive relief, which baldly requests the relief "outlined on page 67 of my complaint." This Court will interpret Plaintiff's motion as one for a temporary restraining order under Federal Rule of Civil Procedure ("Rule") 65.

Rule 65 governs the issuance of temporary restraining orders and preliminary injunctions. Such relief is extraordinary in nature and available only in limited circumstances. *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). In adjudicating a request for injunctive relief, a court must consider four factors, *to wit*: (1) whether the movant has shown a probability of success on the merits; (2) whether the movant will be irreparably injured if relief is denied; (3) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (4) whether granting the preliminary relief is in the public interest. *Crissman v. Dover Downs Ent. Inc.*, 239 F.3d 357, 364 (3d Cir. 2001).

In clarifying the burden on a movant when seeking preliminary injunctive relief, the United States Court of Appeals for the Third Circuit held in *Reilly v. City of Harrisburg* that the movant must first demonstrate "a better than negligible chance" of prevailing on the merits and that "it is more likely than not" that the movant will suffer irreparable harm in the absence of a preliminary injunction. 858 F.3d 173, 179 (3d Cir. 2017). If the movant meets these two "most critical" threshold requirements, the district court then "considers the remaining two factors and determines, in its sound discretion, if all four factors, taken together, balance in favor of granting the requested preliminary relief." *Id.* In this circuit, irreparable harm is that which "cannot be redressed by a legal or an equitable remedy following a trial." *Acierno v. New*

Castle Cnty., 40 F.3d 645, 653 (3d Cir. 1994). Economic loss does not constitute irreparable harm. *Id.* Moreover, injunctive relief is limited to circumstances in which the injury alleged is not only irreparable, but actual and imminent. *Holiday Inns of Am., Inc. v. B & B Corp.*, 409 F.2d 614, 618 (3d Cir. 1969) (noting that injunctive relief may not be used to simply "eliminate a possibility of remote future injury, or a future invasion of rights . . ."). Further, the district court is not required to hold a hearing on a moving party's request for a preliminary injunction "when the movant has not presented a colorable factual basis to support the claim on the merits or the contention of irreparable harm." *Bradley v. Pittsburgh Bd. of Educ.*, 910 F.2d 1172, 1175–76 (3d Cir. 1990).

Here, at the outset, this Court notes that Plaintiff makes no attempt in her motion to meet the legal prerequisites for a temporary restraining order. Plaintiff's motion consists of a single page with a single reference to the relief requested on page 67 of her complaint: "emergency injunctive relief as outlined on page 67 of my complaint." [ECF 3]. In addition, Rule 65 requires a party seeking a temporary restraining order to certify "in writing any efforts made to give notice and the reasons why it should not be required." Fed. R. Civ. P. 65(b)(1)(B). Plaintiff provides no such certification. These failures alone require denial of Plaintiff's motion.

Notwithstanding the above deficiencies, this Court has undertaken a careful review of the allegations in Plaintiff's complaint and finds that they do not establish a "better than negligible" likelihood of prevailing on the merits of her claims. Indeed, while Plaintiff's complaint is replete with allegations describing her efforts to secure the removal of various publications from the public schools, it lacks any factual substance from which to discern any viable claims against the Defendants over which this Court can exercise subject-matter jurisdiction. Plaintiff bears the burden of establishing federal jurisdiction. *See Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015) ("The burden of establishing federal jurisdiction rests with the party asserting its existence.") (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006)). Here, however, Plaintiff's allegations simply do not substantiate the exercise of this Court's limited subject-matter jurisdiction. In the absence of subject-matter jurisdiction, Plaintiff cannot establish a "better than negligible" likelihood of prevailing on the merits of her claims.

When turning to the actual merits of Plaintiff's claims, it is not clear from the allegations in the complaint what civil claims Plaintiff is actually asserting. As best as can be discerned, it appears Plaintiff seeks various forms of injunctive relief that effectively remove various publications that she purports depict obscene, sexually explicit material from all public schools in the United States. Specifically, at page 67 of her complaint (the sole page referenced in her underlying motion), Plaintiff lists the following requests for relief:

1. Enjoin the removal of the following obscene sexually explicit material from the Great Valley School District, all schools in the Commonwealth of Pennsylvania, and if the Court has authority, all public schools in the United States: *Tantric Sex, Gender Queer, Fun Home, PUSH*, and *All Boys Aren't Blue*.
2. Require an independent audit of the Great Valley School Districts K-12 library system, all schools in the Commonwealth of Pennsylvania, and if the Court has authority, all public schools in the United States. Help us identify other sexually explicit materials available to minors . . .
3. Investigate the organized transmission of obscene and sexually explicit materials available to minors in public schools. There must be District Attorneys in this country who will enforce the Rule of Law.

Plaintiff fails to provide any legal basis upon this Court could order the relief she seeks from these Defendants. Simply put, this Court cannot discern from its review of Plaintiff's complaint any claims for

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

which she has shown a "better than negligible" likelihood of prevailing on the merits. It is Plaintiff's obligation, as the movant, to produce evidence sufficient to support the requested injunctive relief, a burden that she simply has not met. *See N.J. Hosp. Ass'n v. Waldman*, 73 F.3d 509, 512 (3d Cir. 1995) (holding that a preliminary injunction "shall issue only if the plaintiff produces evidence sufficient to convince the district court that all four factors favor preliminary relief"). Therefore, Plaintiff's motion for emergency injunctive relief is denied.