

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14-1165

ERIC FLORES,

Petitioner

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Respondent

ON PETITION FOR REVIEW FROM THE CIVIL RIGHTS DIVISION,
UNITED STATES DEPARTMENT OF JUSTICE

THE UNITED STATES DEPARTMENT OF JUSTICE'S MOTION TO DISMISS
THE PETITION FOR REVIEW FOR LACK OF SUBJECT MATTER
JURISDICTION, MOTION TO DEFER FILING OF THE CERTIFIED INDEX
TO THE RECORD, AND MOTION TO DISMISS AS MOOT PETITIONER'S
PENDING MOTIONS TO PROCEED IN FORMA PAUPERIS
AND FOR A PRELIMINARY INJUNCTION

Petitioner Eric Flores, proceeding pro se, has petitioned this Court for review of the discretionary decision of the United States Department of Justice's (Department) Civil Rights Division (CRT or Division) to take no action on a complaint he filed with the Division. Flores subsequently filed motions to proceed in forma pauperis and for a preliminary injunction. This Court ordered the

Department to file a certified index to the record and any dispositive motions by October 14, 2014.

Pursuant to Federal Rule of Appellate Procedure 27 and Circuit Rule 27(g), the Department respectfully moves this Court to dismiss Flores's petition for review for lack of jurisdiction, because he does not have the right to seek review of CRT's discretionary decision not to prosecute his complaint. We also respectfully request the Court to defer the filing of the certified index to the record pending its resolution of our motion to dismiss the petition, and to dismiss as moot Flores's pending motions to proceed in forma pauperis and for a preliminary injunction.

BACKGROUND

On August 25, 2014, Eric Flores, a pro se litigant, petitioned this Court for review (Pet. for Rev.) of a discretionary CRT decision. According to Flores, he filed a complaint with CRT alleging that several "corrupt" law enforcement officers employed by the El Paso Police Department and El Paso Sheriff Department engaged in "negligent torturous [sic] conduct," including sexual assault, murder, and the "use of deadly technology to cause [Flores] and his immediate relatives severe mental and physical pain." Pet. for Rev. 8-9, 18-19, 21-22. Flores also alleged that these officers discriminated and retaliated against him in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (Title VI) for complaining about this conduct to the Department and to state and

federal law enforcement agencies. Pet. for Rev. 8-10, 12, 18-19, 22-27, 30-31, 36-38. Flores's petition further claimed that CRT decided in June 2014 not to prosecute this complaint on the ground that the Division receives so many civil rights complaints every day that it is practically impossible for it to prosecute each one. Pet. for Rev. 2, 9, 20, 34. Flores asserted that this decision itself is a violation of constitutional equal protection and Title VI. Pet. for Rev. 2-4, 7-8, 20, 34.¹

On August 29, 2014, this Court ordered Flores to submit by September 29, 2014, a statement of the issues, docketing statement, certificate as to parties, rulings, and related cases, and the underlying decision from which the petition for review arises. On September 24, 2014, Flores filed the first three documents and a document entitled "Underlying Decision From Which Appeal Or Petition Arise" (List of Underlying Decisions) (Attachment A), which this Court docketed as

¹ Flores has filed numerous Title VI complaints alleging discrimination and retaliation by the University of Texas El Paso and asserting similarly fanciful claims that faculty members have threatened to use "deadly technology" to torture him or his immediate relatives in retaliation for his seeking judicial review. After receiving adverse decisions on these complaints from the Department of Education's Office of Civil Rights, Flores has petitioned several circuit courts for review, including this Court. None of these petitions has been found to be meritorious. See Order, *Flores v. United States Dep't of Educ.*, No. 13-1062 (D.C. Cir.) (filed Dec. 11, 2013); Order, *Flores v. United States Dep't of Educ.*, No. 13-1161 (D.C. Cir.) (filed Oct. 15, 2013); Order, *Flores v. United States Dep't of Educ.*, No. 14-1582 (4th Cir.) (filed Aug. 21, 2014); *In re Eric Flores*, 519 F. App'x 150 (4th Cir. 2013) (No. 13-1331); Order, *Flores v. United States Dep't of Educ.*, No. 14-60390 (5th Cir.) (filed July 30, 2014); Order, *Flores v. United States Dep't of Educ.*, No. 13-60303 (5th Cir.) (filed July 19, 2013); Order, *Flores v. United States Dep't of Educ.*, No. 13-60078 (5th Cir.) (filed May 3, 2013).

“Underlying Decision In Case.” This document listed the following CRT “final agency action[s]” that Flores claims gave rise to his petition for review: (1) a CRT letter informing Flores that his complaint was one of many received by the Division and that it was practically impossible for the Division to investigate each one due to limited resources; (2) a CRT letter stating that the Division was not going to investigate Flores’s complaint and returning the original copy of the complaint; and (3) a CRT letter stating that the Department would not investigate Flores’s complaints that faculty members or employees of an educational institution that receives federal financial assistance committed various crimes, because the Department of Education’s Office of Civil Rights had already rendered a decision on the same complaints. List of Underlying Decisions 1-2.

CRT decision letter (1) is the only CRT decision Flores appears to name or reference as the underlying decision in his petition for review, docketing statement, and certificate as to parties, rulings, and related cases. Flores did not file alleged letter (1) with this Court, and the Department has not been able to find any such letter in its files after a diligent search. Instead, Flores appears to have filed letter (2) and the complaint to which the letter responded (September 5 Decision and Complaint) (Attachment B), which this Court also docketed as “Underlying Decision In Case.” Because letter (2) was dated September 5, 2014, *after* Flores filed his petition for review, this letter could not be the underlying decision from

which the petition for review arose. Flores did not file a copy of alleged letter (3) with this Court.

DISCUSSION

This Court should dismiss the petition for review for lack of jurisdiction. The alleged underlying decision from which the petition arises is letter (1). Flores claims that this letter stated that CRT made the decision not to prosecute his civil rights complaint against “corrupt” state law enforcement officers due to limited resources and the large number of complaints the Division receives. Flores failed to attach a copy of any such letter. In any event, even if Flores had provided a copy of this letter, this Court lacks jurisdiction to review any such discretionary decision.²

² Rule 15 of the Federal Rules of Appellate Procedure requires a petition for review from an agency decision to “specify the order or part thereof to be reviewed.” Fed. R. App. P. 15(a)(2)(C). A petition’s failure to specify an order to be reviewed can result in dismissal, but an inexact specification is not fatal “if the petitioner’s intent to seek review of a specific order can be fairly inferred from the petition for review or from other contemporaneous filings, and the respondent is not misled by the mistake.” *Small Bus. in Telecomms. v. Federal Commc’ns Comm’n*, 251 F.3d 1015, 1019 (D.C. Cir. 2001) (quoting *Entravision Holdings, LLC v. Federal Commc’ns Comm’n*, 202 F.3d 311, 313 (D.C. Cir. 2000)). Flores’s petition for review, docketing statement, and certificate as to parties, rulings, and related cases named or referenced as the underlying decision only the alleged June 2014 CRT decision to take no action against state law enforcement officers due to the Division’s limited resources. Accordingly, this Court should dismiss Flores’s petition for review to the extent that it attempts to challenge CRT decisions in letters (2) and (3) listed in the List of Underlying Decisions, because the petition failed to designate these decisions as Rule 15(a)(2)(C) requires. See *id.* at 1021-

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1. “Federal courts are courts of limited subject-matter jurisdiction. A federal court created by Congress pursuant to Article III of the Constitution has the power to decide only those cases over which Congress grants jurisdiction.” *Al-Zahrani v. Rodriguez*, 669 F.3d 315, 317 (D.C. Cir. 2012) (citing *Micei Int’l v. Department of Commerce*, 613 F.3d 1147, 1151 (D.C. Cir. 2010)); see also *Sierra Club v. Thomas*, 828 F.2d 783, 792 (D.C. Cir. 1987) (federal courts “have just so much jurisdiction as Congress has provided by statute”). The party claiming federal subject matter jurisdiction has the burden of proving it exists. *Khadr v. United States*, 529 F.3d 1112, 1115 (D.C. Cir. 2008). “[O]nly when a direct-review statute specifically gives the court of appeals subject-matter jurisdiction to directly review agency action’ may a party seek initial review in an appellate court.” *Micei Int’l*, 613 F.3d at 1151 (quoting *Watts v. SEC*, 482 F.3d 501, 505 (D.C. Cir. 2007)).

2. Flores asserts that Rule 15 of the Federal Rules of Appellate Procedure provides this Court with subject matter jurisdiction over his petition for review. Pet. for Rev. 8. It is well-settled, however, that Rule 15 does not confer jurisdiction upon the courts of appeals, but rather prescribes the procedures to be

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1023. In any event, this Court possesses no jurisdiction over any of these asserted actions under the Administrative Procedure Act or any other federal statute. See pp. 7-12, *infra*.

followed by courts of appeals in cases in which they are authorized by statute to review final agency decisions. See *Office of the Governor, Territory of Guam v. Department of Health & Human Servs., Admin. on Dev. Disability*, 997 F.2d 1290, 1292 (9th Cir. 1993); *Dillard v. United States Dep't of Hous. & Urban Dev.*, 548 F.2d 1142, 1143 (4th Cir. 1977) (per curiam); *Noland v. United States Civil Serv. Comm'n*, 544 F.2d 333, 334 (8th Cir. 1976) (per curiam). Flores's reliance on Rule 15 is therefore misplaced.

3. Flores is also incorrect in asserting that the Administrative Procedure Act (APA) affords this Court jurisdiction to adjudicate his petition for review. Pet. for Rev at 12-14. The APA provides for judicial review of “[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court.” 5 U.S.C. 704. The APA, however, makes unreviewable “agency action [that] is committed to agency discretion by law.” 5 U.S.C. 701(a)(2).

a. At the outset, we note that CRT's discretionary decision not to prosecute Flores's complaint, after CRT reviewed its allegations, is “agency action * * * committed to agency discretion by law” and thus unreviewable. 5 U.S.C. 701(a)(2). In *Heckler v. Chaney*, 470 U.S. 821 (1985), the Supreme Court held that “an agency's decision not to take enforcement action should be presumed immune from judicial review under § 701(a)(2),” unless the “substantive statute

has provided guidelines for the agency to follow in exercising its enforcement powers.” *Id.* at 832-833. In other words, judicial “review is not to be had if the statute is drawn so that a court would have no meaningful standard against which to judge the agency’s exercise of discretion.” *Id.* at 830.

The presumption against judicial review applies here because nowhere in Title VI or its implementing regulations are there any substantive guidelines for CRT to follow in determining whether to prosecute a civil rights complaint, or for a court to judge such actions. See 28 C.F.R. 42.101 *et seq.* Any decision by the Division not to prosecute Flores’s complaint due to the large volume of complaints it receives would also be well within its discretion.³ See *Heckler*, 470 U.S. at 831

³ Flores’s petition for review refers both to the CRT’s refusal to “prosecute” his complaint (Pet. for Rev. 2, 20), and its refusal to “process and investigate” (Pet. for Rev. 34) his complaint. Although this motion assumes that the CRT stated in its decision letter that it would decline to prosecute Flores’s complaint, the precise language that the CRT used does not affect the outcome. An agency has wide discretion in deciding whether to investigate, which is the precursor to enforcement. In a decision this Court summarily affirmed on appeal, a D.C. District Court stated that “[d]eciding which claims are facially without merit, which claims merit investigation, and the level of investigation desirable, are all enforcement-related decisions” that are “the type of agency decision[s] which *Chaney* holds [are] not for a court to second guess[] [a]bsent law constraining an agency’s discretion in making these decisions.” *Giacobbi v. Biermann*, 780 F. Supp. 33, 37 (D.D.C. 1992), *aff’d*, No. 92-5095, 1992 WL 309042 (D.C. Cir. Oct. 06, 1992) (per curiam); see also *Greer v. Chao*, 492 F.3d 962, 965-966 (8th Cir. 2007) (O’Connor, J.) (no judicial review under the APA for the manner in which the Department of Labor conducted investigation of veteran’s administrative complaint, because “the ‘level of investigation desirable’ is fundamentally an

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(observing that “an agency decision not to enforce often involves a complicated balancing of a number of factors which are peculiarly within its expertise,” including “whether agency resources are best spent on this violation or another, * * * and whether the particular enforcement action requested best fits the agency’s overall policies”). Accordingly, a court may not review this decision.⁴ See, e.g., *Sierra Club v. Jackson*, 648 F.3d 848, 852, 855-857 (D.C. Cir. 2011) (EPA Administrator’s decision not to act to prevent construction of proposed pollution emitting facilities was committed to agency discretion by the Clean Air Act’s enforcement provision and unreviewable under the APA); *Drake v. FAA*, 291 F.3d 59, 70-72 (D.C. Cir. 2002) (FAA’s decision to dismiss flight attendant’s complaint without a hearing because facts stated in complaint “were insufficient to warrant further action” was committed to agency discretion by law and unreviewable under the APA), cert. denied, 537 U.S. 1193 (2003); *Baltimore Gas & Elec. Co. v. FERC*, 252 F.3d 456, 460-461 (D.C. Cir. 2001) (FERC’s decision to

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‘enforcement-related decision[]’” that is unreviewable under the APA) (quoting *Giacobbi*, 780 F. Supp. at 39).

⁴ Flores’s attempt to show that there are substantive guidelines that guide an agency’s discretion in cases like this one (Pet. for Rev. 15-16), is a recitation of legal boilerplate on retaliation that is irrelevant to the issue of whether an agency should investigate or litigate a particular Title VI case given its limited resources.

settle enforcement action against natural-gas vendor was within its nonreviewable discretion under the APA).

b. Even if CRT's decision not to prosecute Flores's complaint were not considered a discretionary agency action, this Court would nonetheless lack jurisdiction to consider this petition for review. As indicated, the APA provides for judicial review of "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court." 5 U.S.C. 704.

Neither Title VI – nor any other statute of which we are aware – affords this Court jurisdiction to review CRT's discretionary decision not to investigate or litigate Flores's complaint against officers of the El Paso Police Department and El Paso Sheriff Department. Direct appellate review under Title VI is limited to those final agency orders "terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title." 42 U.S.C. 2000d-2. By limiting direct appellate review in this fashion, Congress demonstrated an intent not to allow direct appellate review in circumstances such as this, in which individuals have filed complaints with CRT alleging prohibited discrimination and retaliation and are disappointed with the agency's disposition of their complaints. Accordingly, appellate review of CRT's action is not "made reviewable by statute." 5 U.S.C. 704.

Nor is CRT's decision not to investigate or litigate Flores's complaint "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. 704. First, CRT's decision is not a "final agency action" within the meaning of the APA. Title VI's implementing regulations define the term "final decision" to require a decision by a hearing examiner or by the "responsible Department official" – *i.e.*, "the Attorney General, or Deputy Attorney General, or such other official of the Department as has been assigned the principal responsibility within the Department for the administration of the law extending [federal financial] assistance," 28 C.F.R. 42.102(a) – after holding a hearing or reviewing the decision of a hearing examiner. See 28 C.F.R. 42.110. The Title VI regulations further limit the opportunity for a hearing to review decisions terminating or refusing to grant or to continue federal financial assistance. See 28 C.F.R. 42.108(c), 42.109. Thus, under these Title VI regulations, only those decisions concerning the termination of, or refusal to grant or continue, federal financial assistance may constitute a "final decision" that would be subject to direct review by this Court under the APA.⁵

⁵ Because the Department is charged with enforcing Title VI, its interpretation of the statute is entitled to *Chevron* deference. *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1033 (9th Cir. 1998); *Peters v. Jenney*, 327 F.3d 307, 315-316 (4th Cir. 2003).

Moreover, CRT's discretionary decision not to investigate or litigate Flores's complaint is not an agency action "for which there is no other adequate remedy in a court." 5 U.S.C. 704. To the contrary, it is settled that individuals have an implied private right of action under Title VI against recipients of federal financial assistance who engage in prohibited discrimination. *Alexander v. Sandoval*, 532 U.S. 275, 279 (2001) ("[P]rivate individuals may sue to enforce [Title VI] and obtain both injunctive relief and damages."); *Cannon v. University of Chicago*, 441 U.S. 677, 703 (1979) (same). Indeed, in a decision authored by then-Circuit Judge Ruth Bader Ginsburg, this Court concluded that "*Cannon* suggests that Congress considered private suits to end discrimination not merely adequate but *in fact the proper means* for individuals to enforce Title VI." *Women's Equity Action League v. Cavazos*, 906 F.2d 742, 751 (D.C. Cir. 1990) (emphasis added). Accordingly, Flores was entitled to file a Title VI suit in district court against the law enforcement agencies he claimed violated Title VI, but may not seek review under the APA in this Court of CRT's decision not to investigate or prosecute these agencies.

4. In the event that the Department's motion to dismiss is granted by the Court, this proceeding will be dismissed and there will be no need for the agency to prepare and file a certified index to the record. To avoid the expenditure of time and resources on a task that may prove to be unnecessary, the Department

respectfully requests the Court to defer the filing of the certified index to the record until after it rules upon the Department's motion to dismiss. Should the Department's motion to dismiss be denied, we respectfully request that the certified index be due ten days from the date of the denial of the motion.

5. Flores has filed a motion to proceed in forma pauperis. See p. 1, *supra*. Because this Court lacks jurisdiction to consider the petition for review, it should dismiss this motion as moot. It should dismiss Flores's pending motion for a preliminary injunction as moot for the same reason.⁶

6. Undersigned counsel contacted the pro se petitioner via e-mail on October 8, 2014, to ask whether he intends to oppose these motions. As of the time of the filing of this motion, petitioner has not yet responded to this e-mail.

⁶ On October 6, 2014, the Department filed a response in opposition to Flores's motion for a preliminary injunction that argued, *inter alia*, that this Court lacks jurisdiction over Flores's motion because it lacks jurisdiction over his petition for review.

CONCLUSION

For the foregoing reasons, the Department respectfully requests this Court dismiss the petition for review for lack of jurisdiction and dismiss Flores's pending motions to proceed in forma pauperis and for a preliminary injunction as moot. The Court should also defer the filing of the certified index to the record until after it rules upon the motion to dismiss.

Respectfully submitted,

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Attachment A: List of Underlying Decisions

United States Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue N.W., Washington D.C., 20001



“In re Eric Flores , pro se relator”

vs.

United States Attorney General
Office of Civil Rights , respondent

USCA No.14-1165

UNDERLYING DECISION FROM WHICH APPEAL OR PETITION ARISE

Pursuant to the applicable Federal Rules of Appellate Procedure the relator files this “Statement of Underlying Decision from which Appeal or Petition Arise” to present the basis of decision rendered by the United States Attorney General Office of Civil Rights Washington D.C., Office regarding the relators application for justice for review and investigation to properly adjudicate the questions or propistion of law settforth in the relators petition for review. In support thereof the relator states the following grounds for relief , in particular ;

Final Agency Action

The United States Attorney General Office of Civil Rights Washington D.C., Office has rendered three final agency action regarding the relators application for justice.

(I) The first final agency action was a letter from the United States Attorney General Office of Civil Rights Washington D.C., Office stating

that the relators application for justice was one of many applications received by the Office of Civil Rights on a daily basis and therefore it was practically impossible for the Office of Civil Rights to investigate every single application that they received for lack of investigators and resources.

(II) The second final agency action was also a letter stating that the United States Attorney General Office of Civil Rights was not going to investigate the relators application for justice and returned the relators his original copy of the application for justice.(See second letter attached as exhibit (A) and incorporated by reference).

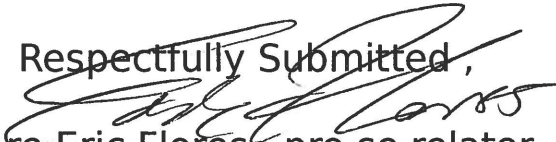
(III)The third final agency action is a letter from the United States Attorney General Office of Civil Rights Washington D.C., Office stating that because another Office of Civil Rights in Dallas Texas with conferring jurisdiction had already rendered a decision regarding the same compliants and therefore the Office of Civil Rights Washington D.C., Office would also adopt the same resolution refuseing to investigate relators compliants of frudad , emblezzement , murder , and victum intimidation committed by faculty members or employees of an educational institution that is a recipient of federal financial assistance from the department of educartion.

Conclusion and Prayer

Wherefore Primises Considered in conformance with the prerequisites settforth herein the relator prays that the United States Court of Appeals for the District of Columbia Circuit to investigate and review the aforementioned underlying decision by issuing a discovery order for the respondant to disclose administrative records to properly adjudicate the facts settforth in this foregoing petition for review by the constitutional requirement of due process of law.

The relator prays for general relief.

Respectfully Submitted ,


In re Eric Flores , pro se relator
General Delivery , 8401 Boeing Dr.,
El Paso Texas 79910

Pursuant to Penalty of Perjury (28 U.S.C. & 1746) the relator hereby states , declares , and certifies that the foregoing Underlying Decision are true and correct.

Certificate of Service

Pursuant to Penalty of Perjury (28 U.S.C. & 1746) the relator hereby states , declares , and certifies that true and correct copies of the foregoing "Underlying Decision" was sent to the following respondants settforth below , in particular ;

(I) United States Attorney General Office of Civil Rights Washington D.C., Office , 333 Constitution Avenue N.W., Washington D.C., 20001.

Attachment B: September 5 Decision and Complaint



U.S. Department of Justice

Civil Rights Division

Administrative Management Section
950 Pennsylvania Avenue, NW
Washington, DC 20530

TW: DF
DJ 144-76-0

September 5, 2014

Mr. Eric Flores
8401 Boeing Drive
El Paso, Texas 79910

Dear Mr. Flores:

This is in reply to your correspondence to the Department. We apologize for the delay of this response.

We have carefully considered the information you furnished. The circumstances you describe do not indicate a violation of a federal civil rights statute. Therefore, we have no authority to take any action on this matter.

Since you believe your rights have been violated, you may wish to retain a private attorney. However, if you lack the necessary funds, you may wish to contact the nearest legal aid or public defender's office, to determine what remedies, if any, are available to you.

Sincerely,

Correspondence Unit
Civil Rights Division

To : United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue N.W.,
Washington D.C., 20530

From : Eric Flores
General Delivery , 8401 Boeing Drive
El Paso Texas 79910

Date : July 3 , 2014

Re : Mass Murder constituting crimes of genocide

To the Office of Civil Rights ,

My name is Eric Flores a citizen for the County of El Paso Texas whom
is of competent and sound mind to make this affidavit.

This civil rights violation complaint is in regards to an ongoing multi
district litigation that has so far departed from the accepted and normal
course of judicial process so as to justify invoking the supervisory
power of the United States Department of Justice Civil Rights Division
to ensure the effective and expeditious administration of the business of
the courts in the interest of justice.

The circumstances of the multi district litigation that has so far
departed from the accepted and normal course of judicial process so as
to justify invoking the supervisory power of the United States

Department of Justice Civil Rights Division , falls within the realm of

the affiant filing a civil cause of action in the federal court system to complain against an anti government organized group of executive employees of the federal government for engaging in negligent torturous conduct that has resulted in the death of more than four members of a protected class of Mexican American national origin constituting mass murder in the first degree.

The affiants' civil cause of action was seeking for the federal court to take preventive measures such as lawful sanctions to prohibit the complainant about an anti government organized group of executive employees of the federal government from continuing to engage in negligent torturous conduct to cause the death of another surviving member of a protected class of Mexican American citizens.

As a result the anti government organized group of executive employees of the federal government that are persons of White , Mexican , African , and Chinese American national origin misused their official capacity to unlawfully act under the color of state law to setup their own courts of common law with the racially biased intent of harassing the affiants (Eric Flores) constitutional rights to access to court for the purpose of depriving the affiant (Eric Flores) of equal protection of law by

electronically filing into the clerk of the courts docketing system frivolous documents resembling legitimate court actions that falsely portray to dismiss the affaints nonfrivolous legal claims seeking relief from imminent danger such as death so as to influence the clerk of the court to believe that the court has rendered a decision to dismiss the case to cause the clerk of the court to close the case to prevent a judicial investigation that can result in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for engageing in negligent torturrious conduct that has resulted in the death of more than four members of a protected class of Mexican American citizens of the United States without the authorization of the United States government constituteing mass murder in the first degree.

Thereafter the affaint began browseing the internet website to search for addresses of other federal district courts where the affaint could file his nonfrivolous legal claims to seek relief from imminent danger such as death without the aforementioned anti government groups interference with communication and access to the court.

The anti government organized group of executive employees of the federal government retaliated against the invocation of the affiant constitutional right by using advanced technology with a direct signal to the satellite in outerspace that has the capability of calculateing a procedure to intercept the affaints' internet access with the specific intent of inserting false and frivolous addresses of different federal district courts located in different geographic locations in the United States into the internet website so that the affiant could not obtain the correct addresses of the federal district courts from the internet website for the purpose of preventing the affiant from communicateing to the correct federal district court address to hinder a judicial investigation that can result in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for engageing in negligent torturrious conduct that has resulted in the death of more than four members of a protected class of Mexican American citizens of the United States constituteing mass murder in the first degree.

The anti government organized group of executive employees of the federal government inserted false and frivolous federal district court

addresses into the internet website for the purpose of compelling the affiant to send his nonfrivolous legal claims seeking relief from imminent danger such as death to false addresses of the federal district courts in which was so that the anti government organized group of executive employees of the federal government could interfere and steal the affiants mail article from the post office that was containing his nonfrivolous legal claims seeking relief from imminent danger such as death that was being sent to the false federal district court addresses so as to enable the anti government organized group of executive employees of the federal government to responded to the affiants nonfrivolous legal claims against torture on behalf of the federal district court by sending the affiant frivolous documents resembling legitimate court actions that falsely portray to dismiss the affiants nonfrivolous legal claims seeking relief from imminent danger such as death so as to prevent a judicial investigation that can result in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for engaging in negligent torturous conduct that has resulted in the death of more than four

members of a protected class of Mexican American citizens of the United States constituteing mass murder in the first degree.

The affiant reported the anti government organized group of executive employees of the federal government mail theft to a Postal Manager named Vincent E. McDaniel from the Sandy Creek Post Office located in El Paso Texas.

The Postal Manager named Vincent E. McDaniel said that he would conduct a postal investigation to determine what happened to the mail articles that the affaint had sent to the false federal district court addresses which never arrived to its destination and was never sent back to the affaint.

The anti government organized group of executive employees of the federal government retaliated against the affaint for reporting mail theft to Postal Manager named Vincent E. McDaniel by using advanced technology with a direct signal to the satellite in outerspace that has the capability of calculateing a genetic code to cause Postal Manager named Vincent E. McDaniel severe heart pain for long durations exceeding calendar days in which was equivalent in intensity to cardiac and respatory failure leading to a heart attack resulting in the death of

Postal Manager named Vincent E. McDaniels so as to prevent an internal postal investigation that could have resulted in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for stealing the affiant's mail articles from the post office that was containing the affiant's nonfrivolous legal claims seeking relief from imminent danger such as death.

The anti government organized group of executive employees of the federal government even went to the extent of influencing, instructing, intimidating, directing, coercing, or otherwise bribing and soliciting medical professionals from the El Paso County Medical Examiners and Forensic Laboratory to falsify and fabricate frivolous documents resembling legitimate autopsy actions that falsely portray that Postal Manager named Vincent E. McDaniel died of a natural cause of death such as a heart attack out of old age so as to rule out any probable cause that could prove that deadly technology was used to cause Postal Manager Vincent E. McDaniel a heart attack resulting in his death.

Thereafter the anti government organized group of executive employees of the federal government then sent frivolous documents resembling

legitimate courts actions to the affiant which falsely portrayed to dismiss the affaints nonfrivolous legal claims seeking relief from imminent danger such as death as frivolous and wholly incredible for the purpose of imposeing sanctions restricting the affiant from fileing another similar cause of action seeking relief from imminent danger such as death so as to prevent a judicial investigation that can result in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for continuesly engageing in negligent torturrious conduct that has resulted in the death of more than four members of a protected class of Mexican American citizens of the United States constituteing mass murder in the first degree.

The frivolous documents resembleing legitimate court actions also alleged that the affaint was fileing the same type of legal claims seeking relief from imminent danger such as death in different federal district courts nation wide so as to elude any previous sanctions that were alleged to be imposed by different federal district courts in regards to the affaint same legal claims seeking relief from imminent danger such as death in which was to lead the justice official to believe that affaint

was a vexatious and repetitive filer of frivolous legal claims against torture so as to prevent a judicial investigation that can result in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for engaging in negligent torturiose conduct that has resulted in the death of more than four of the plaintiffs immediate relatives constituteing mass murder in the first degree.

Because the affiant was not able to obtain the relief that was being seeked from imminent danger such as death as a result of the anti government organized group of executive employees of the federal government simulation of the legal process therefore the anti government organized group of executive employees of the federal government were able to retaliated against the invocation of the affaints constitutional rights by sending a law enforcement police relative to shoot and kill the affaints brother Javier Flores Junior.

The corrupt law enforcement police officer named Paul McDowell from the El Paso Police Department in El Paso Texas shot the affaints brother seven (7) times in the heart and chest resulting in the death of the affaints brother Javier Flores Junior.

The corrupt police officer named Paul McDowell specific purpose of shooting the affaints brother Javier Flores Junior exactly seven times in the heart and chest was so as to begin the trend of a chronology of events or pattern of dates based on the number seven from which can be casually inferred to the next victum that the organized group of executive employees of the federal government intended to kill in retaliation to the invocation of the affaints constiotutional rights in the ongoing multi district litigation..

For example the number seven (7) reflects the number of family members left in the plaintiffs family after the death of the affaints brother Javier Flores Junior.

The number seven (7) also reflects the day of the month that the affaints brother Javier Flores Junior was born on May 7 , 1981.

The number seven (7) also reflects the day of the month that the affaints grandmother Evagelina Salas was born May 7.

The number seven (7) also reflects the day of the month that the affaints mother Cynthia Lorenza Flores was born November 7 , 1963.

The pattern or chronology of dates based on the number seven meant that the anti government organized group of executive employees of the

federal government intended to kill the affiants relatives that were born on the seventh day of the month in the instance that the affiant continued instituting the invocation of the constitutional rights to complain against the organized group of executive employee of the federal government for engaging in negligent torturous conduct that has already resulted in the death of two of the affiant immediate relatives including a mail postal manager named Vincent E. McDaniel. The pattern or chronology of dates based on the number seven also meant that the anti government organized group of executive employees of the federal government intended to cause of the death of all seven of the remaining family members including the affiant from eldest to young one by one in a long time frame so as to make it seem that the affiants relatives were dieing of natural causes or old age..

Furthermore because the affiant was not able to obtain the relief that was being seeked from imminent danger such as death as a result of the anti government organized group of executive employees of the federal government simulation of the legal process therefore the anti government organized group of executive employees of the federal government were able to retaliated against the invocation of the

affaints constitutional rights by using advanced technology with a direct signal to the satellite in outerspace that has the capability of calculateing a genetic code to cause the affaints grandmother Evagelina Salas Mendoza severe heart pain for long durations exceeding calendar years in which was equivalent in intensity to cardiac and respatory failure leading to a heart attack resulting in the death of Evagelina Salas Mendoza.

The sole reason why the anti government organized group of executive employees of the federal government caused the death of the affaints brother Javier Flores Junior and the affaints grandmother Evagelina Salas Mendoza was to establish a casual connection to both of the victums date of birth which is on the same day May 7.

The affaints brother Javier Flores Junior was born on May 7 which is the same date (May 7) that the affaints grandmother Evagelina Salas Mendoza was born as well.


The purpose of establishing a casual connection to both of the victums date of birth May 7 was to give great significance to the 7th seventh day of the month to be able to refer to the date of birth of the affaints mother Cynthia Lorenza Flores whom was also born on the seventh day

of the month (November 7th) so as to give the indication that the anti government organized group of executive employees of the federal government would cause the death of the affaints mother Cynthia Lorenza Flores if the affaint did not stop fileing nonfrivolous legal claims seeking relief from imminent danger such as death which could result in criminal lawful sanctions against the anti government organized group of executive employees of the federal government for engaging in negligent torturrious conduct that has resulted in the death of more than four members of a protected class of Mexicana American citizens of the United States constituteing mass murder in the first degree.

I am requesting that a federal prosecutor be assigned to conduct an investigation for want of prosecution.

Please help soon.

Respectfully Submitted ,


Eric Flores , pro se affiant

General Delivery , 8401 Boeing Drive

El Paso Texas 79910

Pursuant to Penalty of Perjury (28 U.S.C. & 1746) the affiant Eric Flores hereby states , declares , and certifies that the foregoing affidavit is true and correct to the best of my knowledge.

Attachment C: Certificate of Parties, Rulings, and Related Cases

**CERTIFICATE AS TO PARTIES, RULINGS,
AND RELATED CASES**

The United States Department of Justice, as respondent, certifies that:

1. Parties

The pro se petitioner is Eric Flores. The respondent is the United States Department of Justice. There are no intervenors or *amici*.

2. Rulings Under Review

Petitioner seeks review of a discretionary decision of the United States Department of Justice, Civil Rights Division, declining to prosecute his complaint alleging a possible Title VI violation. There were no prior proceedings in district court.

3. Related Cases

To the best of our knowledge, this case was not previously before this Court or any other court, and we are aware of no related cases currently pending in this Court or in any other court within the meaning of Circuit Rule 28(a)(1)(C).

s/ Christopher C. Wang
CHRISTOPHER C. WANG
Attorney

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2014, I electronically filed the foregoing THE UNITED STATES DEPARTMENT OF JUSTICE'S MOTION TO DISMISS THE PETITION FOR REVIEW FOR LACK OF SUBJECT MATTER JURISDICTION, MOTION TO DEFER FILING OF THE CERTIFIED INDEX TO THE RECORD, AND MOTION TO DISMISS AS MOOT PETITIONER'S PENDING MOTION TO PROCEED IN FORMA PAUPERIS with the Clerk of the Court using the appellate CM/ECF system.

I further certify that, within two business days of October 14, 2014, I will cause to be hand-delivered four paper copies of the foregoing motion to the United States Court of Appeals for the District of Columbia Circuit.

I further certify that petitioner listed below will be served via e-mail and U.S. Mail postage prepaid at the following address:

Eric Flores
8401 Boeing Drive
El Paso, TX 79910

s/ Christopher C. Wang
CHRISTOPHER C. WANG
Attorney