

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

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Roosevelt Simmons,  
  
Plaintiff,  
  
v.  
  
Mase and Company, LLC, J. Al Cannon,  
Jr., Charleston County Sheriff's  
Department, Charleston County, Charleston  
County Revenue Collections Department,  
and Harry Long,  
  
Defendants.

Civil Action No.: 2:11-cv-709-RMG

2011-1084

ORDER

FILED  
2012 JUL 11 PM 4:23  
JULIE J. ARMSTRONG  
CLERK OF COURT

This matter comes before the Court on Plaintiff's motion to dismiss for lack of jurisdiction. (Dkt. No. 38).

In this case, Plaintiff seeks to invalidate various judgments entered against him in state court as the result of various fees which certain Defendants allegedly improperly assessed against Plaintiff. In his Amended Complaint, Plaintiff alleges five causes of action. (See Dkt. No. 35). Plaintiff identifies these causes of action as (1) Invalidating Sheriff's Deed of TMS 498; (2) Invalidation of user Fees and Judgments; (3) Invalidation of Judgments for Non Owned Real Property; (4) Civil Rights Violation; and (5) Tort Claim. (*Id.*). All of these causes of action arise from one or more of the Defendants allegedly assessing Plaintiff for various user fees and then obtaining judgments against Plaintiff based on these assessments. Plaintiff argues that the judgments were improperly entered against him and should be invalidated.

Plaintiff originally filed his Complaint in the Charleston County Court of Common Pleas, but Defendants removed the case to federal court based on Plaintiff's civil rights cause of action

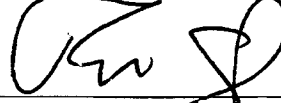
in which Plaintiff alleges that Defendants' assessments and pursuit of state court judgments against Plaintiff "denied [Plaintiff] equal protection of the law under the United States Constitution and [Plaintiff's] rights under 42 U.S.C. section 1983." (Dkt. No. 35 at 6). Plaintiff did not file a motion to remand. Instead, on November 11, 2011, Plaintiff filed a motion to dismiss, arguing that the Court should dismiss Plaintiff's entire case or, in the alternative, should dismiss the First, Second, and Third Counts and stay the Fourth and Fifth Counts pending resolution of the First, Second, and Third Counts in state court. (Dkt. No. 38). In his motion to dismiss, Plaintiff argued that, pursuant to the *Rooker-Feldman* doctrine, the Court does not have subject matter jurisdiction over Plaintiff's claims. (*Id.*). Specifically, Plaintiff argued that Counts One, Two, and Three of the Amended Complaint would require the Court to review several South Carolina Magistrate Court judgments and a Sheriff's sale resulting from execution on one of the judgments in direct violation of the *Rooker-Feldman* doctrine. (*Id.* at 4). Further, Plaintiff argued that the constitutional claim alleged in Count Four is "inextricably intertwined" with the state court decisions, and that the Court therefore does not have subject matter jurisdiction over Count Four either. (*Id.* at 4-5). Finally, Plaintiff argued that the Court should refuse to exercise supplemental jurisdiction over the tort claim alleged in Count Five. (*Id.* at 5). In a very brief Response to Plaintiff's motion, Defendants noted that Plaintiff's civil rights cause of action "does not make reference to a specific judgment in State Court." (Dkt. No. 40 at 1). Thus, Defendants argued that the Court need not stay Count Four while Plaintiff pursues the remaining causes of action in state court.

The Court agrees with Plaintiff that the *Rooker-Feldman* doctrine bars this Court from exercising jurisdiction over Counts One, Two, Three, and Four of Plaintiff's Amended Complaint. Under the *Rooker-Feldman* doctrine, "lower courts are precluded from exercising

appellate jurisdiction over final state-court judgments.” *Lance v. Dennis*, 546 U.S. 459, 463 (2006). “The Rooker-Feldman doctrine precludes not only review of adjudications of the state’s highest court, but also the decisions of its lower courts.” *Jordahl v. Democratic Party of Virginia*, 122 F.3d 192, 199 (4th Cir. 1997). In this suit, Plaintiff seeks to invalidate certain state court judgments which certain Defendants allegedly obtained against Plaintiff. These are precisely the types of claims which the *Rooker-Feldman* doctrine prohibits federal courts from entertaining. Further, the Court agrees with Plaintiff that the § 1983 claim in Count Four is “inextricably intertwined” with the challenged state court judgments, and the Court is therefore barred from exercising jurisdiction over this claim as well. *See id.* at 202-03 (holding that the *Rooker-Feldman* doctrine barred the federal court from exercising jurisdiction over plaintiff’s § 1983 claim, which was “inextricably intertwined” with plaintiff’s challenges to state court decisions). Finally, the Court declines to exercise supplemental jurisdiction over Plaintiff’s tort claim in Count Five of the Amended Complaint. *See* 28 U.S.C. § 1367(c)(3) (giving district courts the discretion to decline to exercise supplemental jurisdiction over a claim where the district court has dismissed all claims over which it has original jurisdiction).

Although Plaintiff filed a motion to dismiss rather than a motion to remand, a district court may *sua sponte* remand a case to state court based on lack of subject matter jurisdiction. *Ellenburg v. Spartan Motors Chassis, Inc.*, 519 F.3d 192, 196 (4th Cir. 2008). For the foregoing reasons, the Court hereby remands this case to the Charleston County Court of Common Pleas.

**AND IT IS SO ORDERED.**



Richard Mark Gergel  
United States District Court Judge

February 6, 2012  
Charleston, South Carolina

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July 9, 2012

Ms. Julie J. Armstrong  
Clerk of the Court  
Charleston County Courthouse  
100 Broad Street  
Charleston, SC 29401

Re: Simmons v. Mase and Co, LLC. et al  
Case No. 2011-CP-10-1084

Dear Ms. Armstrong:

This case was previously filed in Charleston County and then removed by defendant Charleston County. It has been remanded by order of the United States District Court. Enclosed for filing are pleadings and orders entered by the United States District Court for South Carolina under case no 2:11cv-0709 prior to remand of the case by Judge Gergel. See attached list. Please enter them on the docket of the captioned case. Thank you for your kind assistance in this matter.

Very truly yours,



Edward A. Bertele, Esq.

Encl:

CC: Chris Dorsel, Esq. w/o enclosure

Wendy Keefer, Esq. “ “

U.S. District Court  
District of South Carolina (Charleston)  
CASE #: 2:11-cv-00709-RMG

1. Answer to Complaint by Al Cannon, Jr., Charleston County with Certificate of Service Entered: 03/31/2011.
2. Answer to Complaint by Mase and Company, LLC, Crossclaim against Al Cannon, Jr., Charleston County, Counterclaim against Roosevelt Simmons .Entered: 04/28/2011.
3. Mase and Company, LLC's Amended Answer to Complaint, Crossclaim against Al Cannon, Jr., Charleston County, Counterclaim against All Plaintiffs by Charles E Masencup, Mase and Company LLC. Entered: 04/29/2011.
4. Reply to Crossclaim by Al Cannon, Jr., Sheriff of Charleston County, Charleston County. Entered: 05/18/2011.
5. Answer to Counterclaim by Roosevelt Simmons. Entered: 05/19/2011.
6. Consent Protective Order by Honorable Richard M Gergel. Entered: 09/21/2011.
7. Second Amended Complaint against All Defendants by Roosevelt Simmons. Entered: 10/15/2011.
8. Answer to Second Amended Complaint by Al Cannon, Jr., Sheriff of Charleston County, Charleston County, Charleston County Revenue Collections Department, Harry Long. Entered: 10/28/2011.
9. Answer to Amended Complaint, Crossclaim against Charleston County, Al Cannon, Jr., Sheriff of Charleston County, Charleston County Revenue Collections Department, Harry Long, Counterclaim against Roosevelt Simmons by Charles E Masencup, Mase and Company LLC. Entered: 10/28/2011.
10. Plaintiff's Motion for Voluntary Dismissal and Stay by Roosevelt Simmons. Entered: 11/07/2011.
11. Reply to Crossclaim by Al Cannon, Jr., Sheriff of Charleston County, Charleston County, Charleston County Revenue Collections Department, Harry Long. Entered: 11/11/2011.
12. Opposition to Motion to Dismiss for lack of jurisdiction and Stay filed by Al Cannon, Jr., Sheriff of Charleston County, Charleston County, Charleston County Revenue Collections Department, Harry Long. Entered: 11/22/2011.
13. Plaintiff's Reply in support o Motion for Voluntary Dismissal. Entered: 12/02/11.

14. Consent Order to Extend Discovery, To Amend Second Amended Scheduling Order, granting Motion for Extension of Time to Complete Discovery Signed by Honorable Richard M. Gergel. Entered: 12/05/2011.

15. Order remanding this case to the Charleston County Court of Common Pleas by Hon. Richard M Gergel. Entered: 02/06/2012.