

2011-CP-10-1084

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

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DISTRICT OF SOUTH CAROLINA

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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

ORDER

FILED
2012 FEB -7 PM 1:10
JULIE J. HANSTON
CLERK OF COURT
BY _____

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

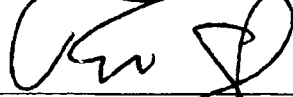
in which Plaintiff alleges that Defendants' assessments and pursuit of state court judgments against Plaintiff "denied [Plaintiff] equal protection of the law under the United States Constitution and [Plaintiff's] rights under 42 U.S.C. section 1983." (Dkt. No. 35 at 6). Plaintiff did not file a motion 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 Gerge
United States District Court Judge

February 6, 2012
Charleston, South Carolina