

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

CITY OF HELENA; and MUNICIPAL
COURT JUDGE BOB WOOD

Plaintiffs,

vs.

ERIC BROSTEN.

Defendant.

CV 15-70-BU-BMM

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Plaintiff Eric Brosten filed a pleading in this action, together with his application for leave to proceed in forma pauperis under 28 U.S.C. § 1915(a)(1). Brosten is proceeding *pro se*. Brosten filed a “Notice of Removal” (Doc. 2-1) and a supporting pleading in this action (Doc. 2). Brosten claims that he has been criminally charged with screaming in a house in Helena, Montana. (Doc. 2-1.) Brosten seeks removal to federal court under 28 U.S.C. § 1446. Brosten contends that the removal is necessary based on improper influences on the municipal court. Brosten requests that the Court stop the criminal prosecution in Helena Municipal Court.

United States Magistrate Judge Jeremiah Lynch entered Findings and Recommendations in this matter on November 16, 2015. (Doc. 3.) Judge Lynch

recommended that the Court dismiss the pleading under the doctrine of *Younger* abstention. (Doc. 3 at 7.) The Court determined that the pleading cannot be cured by amendment. (Doc. 3 at 6.) Brosten filed no objections to Judge Lynch's Findings and Recommendations. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Lynch's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no error in Judge Lynch's Findings and Recommendations, and adopts them in full. The Court must abstain under *Younger* if the following four requirements are met: (1) a state-initiated proceeding is ongoing; (2) the proceeding implicates important state interests; (3) the federal plaintiff is not barred from litigating federal constitutional issues in the state proceeding; and (4) the federal court action would enjoin the proceeding or have the practical effect of doing so, i.e., would interfere with the state proceeding in a way that *Younger* disapproves. All of the elements of *Younger* abstention have been established in this case.

Accordingly, **IT IS SO ORDERED** that Brosten's request to proceed in forma pauperis (Doc. 1) under 28 U.S.C. § 1915(a)(1) is **DENIED** and this action

shall be **DISMISSED** and **REMANDED** to the City of Helena, Montana,
Municipal Court.

DATED this 7th Day of December, 2015.

A handwritten signature in cursive script that reads "Brian Morris". The signature is written in dark ink and is positioned above a horizontal line.

Brian Morris
United States District Court Judge