

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

PAMELA STUCKEY,

Plaintiff,

VS.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
ET AL.,

Defendants.

*
*
*
*
*
*
*
*
*
*
*
*

NO: 4:12CV00082 SWW

Order

Before the Court is plaintiff’s motion for a new trial and for recusal. On April 9, 2012, the Court granted defendants’ motions and dismissed plaintiff’s complaint after she failed to timely respond to the motions as ordered by the Court. In her motion for a new trial, plaintiff states Little Rock police officers removed her from her home on March 19, 2012, when it was repossessed. Plaintiff states she has been homeless since then and “deprived of computer, personal and private papers in this cause and denied access to her U.S. Mail.” She asks that the Court set aside the Order entered in her case, and that this Judge and every judge of Eastern and Western Districts of Arkansas recuse from her case. Her reasons for requesting recusal, other than service on the bench with Honorable James M. Moody,¹ are unclear.

The Court has considered plaintiff’s motion for recusal and it is hereby denied. The

¹Judge Moody recused himself after plaintiff filed a motion seeking his recusal based on the fact that his son presided over plaintiff’s state court case.

Court also has considered her motion for new trial and it is denied. In their motions to dismiss, defendants ClearVue Opportunity IX LLC, Worsham Law Firm PA, Larry Crane, Charles Holladay, and R D Bostic contend that the *Rooker-Feldman* doctrine precludes the Court from hearing plaintiff's claims against them. Defendant Mickel Law Firm and Heritage Service Company move for summary judgment.

The *Rooker-Feldman* doctrine recognizes that federal courts other than the United States Supreme Court lack subject matter jurisdiction over challenges to state court judgments. *See Keene Corp. v. Cass*, 908 F.2d 293, 296 (8th Cir.1990).

Although a federal district court may not possess appellate jurisdiction to review a state court judgment, it may exercise jurisdiction over a general constitutional challenge made in a federal proceeding as long as the constitutional challenge is not 'inextricably intertwined' with claims asserted in a state court proceeding. Under the *Feldman* doctrine, 'the federal claim is inextricably intertwined with the state-court judgment if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it. Where federal relief can only be predicated upon a conviction that the state court was wrong, it is difficult to conceive the federal proceeding as, in substance, anything other than a prohibited appeal of the state-court judgment.

Id. at 296-97 (internal citations omitted).

The Court finds the issues raised in plaintiff's state court action and the present action are inextricably intertwined. In her claim in state court, plaintiff alleged that the lender could not maintain a non-judicial foreclosure in the State of Arkansas, that the mortgage was a predatory loan, that defendants should be enjoined from bringing an unlawful detainer action, that a power of attorney was fraudulent, that the deed resulting from the foreclosure sale should be set aside and declare void, and that she was entitled to compensatory and punitive damages.² In the action

²Docket entry 13-1.

before this Court, plaintiff is challenging the state court's resolution of the foreclosure proceedings and/or unlawful detainer actions. It also appears that plaintiff is attempting to enjoin the county defendants from enforcing the writ of possession issued by the Circuit Court of Pulaski County. Plaintiff asserts that the matter is on appeal to the Arkansas Supreme Court and Arkansas Court of Appeals.

To grant plaintiff the relief she seeks in this federal action, the Court must necessarily find that the state court wrongly decided the issues before it. The Court finds plaintiff fails to allege facts supporting the Court's jurisdiction to hear her claim.

IT IS THEREFORE ORDERED that plaintiff's motion for new trial and recusal [docket entry 40] is denied.

DATED this 23rd day of May, 2012.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE