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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT LYNN,

NO. CIV. S-13-1657 TLN/EFB

Plaintiff,

v.

O R D E R

THE STATE OF CALIFORNIA,

Defendant.

_____ /

Presently before the court is an application for a temporary restraining order ("TRO") filed by plaintiff Robert Lynn, proceeding *in pro per*. (ECF No. 3.)

Plaintiff alleges that he sold his home in San Diego, California in 2000 at a loss, and is now being improperly assessed taxes on the sale by defendant State of California. (Complaint, ECF No. 1.) According to the complaint, "On August 5, 2013, Plaintiff was notified by Plaintiff's bank that defendant would seize \$2292.72 dollars [*sic*] from Plaintiff's checking account. More than 61% of Plaintiff's monthly income is from Social Security. Defendant has no authority to seize Plaintiff's Social Security,

1 but defendant will do this without any notice to Plaintiff in
2 blatant disregard of the U.S. Constitution." (Id. ¶ 12.) Plaintiff
3 alleges that the seizure of funds from his checking account is an
4 unlawful taking in violation of the Fourteenth Amendment. (Id.
5 ¶ 1.)

6 Plaintiff seeks a TRO directing plaintiff's bank not to
7 transfer any funds from his checking account to satisfy the levy,
8 and if the funds are so transferred, directing defendant to return
9 them within twenty-four hours of receipt.

10 From the face of the complaint, it appears that the federal
11 courts lack any subject matter jurisdiction over this matter. If
12 the levy is illegitimate, plaintiff's remedy appears to lie with
13 the Superior Court of California. California law provides
14 procedures, in lieu of temporary restraining orders, for halting
15 and/or reversing levies of funds. See, generally, Cal. Code Civ.
16 Proc. §§ 703.510-703.610 ("Procedure for Claiming Exemptions After
17 Levy"); see also Cal. Code Civ. Proc. §§ 704.010-704.210 ("Exempt
18 Property"). The court also notes that most California counties
19 maintain Area Agencies on Aging to assist senior citizens with
20 emergencies such as that outlined by plaintiff.

21 Accordingly, the court hereby orders as follows:

22 [1] Plaintiff's request for a temporary restraining order is
23 DENIED.

24 [2] Plaintiff's application to proceed without prepayment of
25 fees (ECF No. 2) is GRANTED.

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[3] This action is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

DATED: August 14, 2013.



LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT