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2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
45
6 THOMAS MARK DEAL,

7 Plaintiff,

No. C 12-4440 PJH

8 v.

**ORDER DENYING MOTION FOR
STAY AND DISMISSING COMPLAINT**9 PATRICIA FUNKE/DEAL,
1011 Defendant.
12

13 Plaintiff Thomas Mark Deal's ("plaintiff") complaint and motion for stay of state court
14 proceedings was filed in this court on August 23, 2012. Having read plaintiff's papers and
15 carefully considered his arguments and the relevant legal authority, the court hereby rules
16 as follows.

17 As to plaintiff's motion for a stay of all state court proceedings, the court notes that
18 the Anti-Injunction Act constrains the ability of federal courts to stay state court actions.
19 See 28 U.S.C. § 2283 ("A court of the United States may not grant an injunction to stay
20 proceedings in a State court except as expressly authorized by Act of Congress, or where
21 necessary in aid of its jurisdiction, or to protect or effectuate its judgments."). The Act "is
22 an absolute prohibition against enjoining state court proceedings, unless the injunction falls
23 within one of [the] three specifically defined exceptions." Atlantic Coast Line Railroad
24 Company v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 286 (1970). The three
25 exceptions are narrowly construed, and "doubts as to the propriety of a federal injunction
26 against a state court proceeding should be resolved in favor of permitting the state action to
27 proceed." Lou v. Belzberg, 834 F.2d 730, 739 (9th Cir. 1987).

28 The underlying state court proceeding here consists of action in which plaintiff was

1 ordered to pay child support, then convicted for failure to pay child support. Accordingly,
2 none of the three exceptions would apply. Staying state court proceedings in a child
3 support case is not expressly authorized by Congress, is not necessary to aid the state
4 court's jurisdiction, nor would a stay protect or effectuate this court's judgments.

5 In addition, the court finds that the complaint, as currently pleaded, fails to provide a
6 basis for federal subject matter jurisdiction.¹ Plaintiff seeks relief that has already been
7 denied by a state court. Federal courts are not empowered to review errors allegedly
8 committed by state courts. See Rooker v. Fidelity Trust Co., 263 U.S. 413, 416 (1923);
9 D.C. Ct. App. v. Feldman, 460 U.S. 462, 482 (1983). Further, federal courts are required to
10 abstain from hearing a case if there is an ongoing state proceeding. See Younger v.
11 Harris, 401 U.S. 37, 40 (1971). While plaintiff makes brief reference to section 1983, he
12 does not identify the specific constitutional right that was violated nor the specific acts that
13 caused the alleged violation(s), nor does he allege that the constitutional violation was
14 caused by a state actor, as it appears that the defendant is his wife or ex-wife. Thus, it is
15 not clear from the complaint that the court has subject matter jurisdiction. Accordingly, the
16 court DISMISSES the complaint.

17 Although the court is of the opinion that repleading will not solve the deficiencies in
18 the complaint, the court will allow plaintiff an opportunity to file an amended complaint. For
19 that amended complaint to be successful, plaintiff must plead the status of any state court
20 proceedings, so that the court can determine whether absence or claim preclusion is
21 proper. The amended complaint shall set forth each cause of action in separate numbered
22 paragraphs citing the authority under which the cause of action is brought and the facts
23 supporting it, and identifying whether the only defendant named is a state actor.

24 Plaintiff must also specifically establish that this court has subject matter jurisdiction
25 to hear this case. Federal courts can only adjudicate cases which the Constitution or

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27 ¹Federal courts are empowered to assess subject matter jurisdiction, sua sponte, at any
28 time. Snell v. Cleveland, 316 F.3d 822, 826 (9th Cir. 2002).

1 Congress authorize them to adjudicate: those cases involving diversity of citizenship
2 (where the parties are from diverse states and the amount in controversy is at least
3 \$75,000), or a federal question, or those cases to which the United States is a party. See,
4 e.g., Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375 (1994). Federal
5 courts are presumptively without jurisdiction over civil cases and the burden of establishing
6 the contrary rests upon the party asserting jurisdiction. Id. at 377. If the amended
7 complaint still fails to properly establish subject matter jurisdiction, the court has the power
8 to dismiss the complaint sua sponte. See Fed. R. Civ. P. 12(h)(3). Any amended
9 complaint must be filed no later than **September 21, 2012**.

10 If plaintiff fails to file an amended complaint by September 21, 2012, or if he files an
11 amended complaint not in accordance with the above instructions, the case will be
12 dismissed with prejudice.

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14 **IT IS SO ORDERED.**

15 Dated: August 31, 2012



PHYLLIS J. HAMILTON
United States District Judge

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