

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 16-cv-2480-WJM-CBS

GILBERT T. TSO, individually, and as the parent and on behalf of M.X.T.,

Plaintiff,

v.

REBECCA MURRAY, individually;
TANYA AKINS, individually and official capacities;
SHERR PUTTMAN AKINS LAMB PC, a law firm;
JEANNIE RIDINGS, individually and official capacities;
KILILIS RIDINGS & VANAU PC, a law firm;
RUSSELL M. MURRAY, individually;
DENA MURRAY, individually;
JOANNE JENSEN, individually;
RICHARD F. SPIEGLE, individually
DENVER DISTRICT COURT, a municipal entity;
DENVER DEPARTMENT OF HUMAN SERVICES, a municipal entity;
THE CITY & COUNTY OF DENVER, COLORADO; and,
THE COLORADO DEPARTMENT OF HUMAN SERVICES,

Defendants.

**ORDER DENYING PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

In this action, Plaintiff brings a wide range of claims against his former wife and against a variety of other individual and official defendants, all arising from Plaintiff's underlying domestic relations case, including from one or more resulting support orders. (See generally ECF Nos. 115-1, 115-2 & 115-3, ECF No. 120.) Evidently, Plaintiff's support obligations (which he here contests) have gone unpaid, leading to the garnishment of certain of his assets and the expected suspension of his drivers'

license. (See *generally* ECF No. 132.) As a result, Plaintiff now seeks a preliminary injunction and/or a temporary restraining order to halt various parties and entities from proceeding with this garnishment and with suspending his drivers' license. (See ECF Nos. 131, 132, 181.)

A preliminary injunction is an extraordinary remedy; accordingly, the right to relief must be clear and unequivocal. See, e.g., *Flood v. ClearOne Commc'ns, Inc.*, 618 F.3d 1110, 1117 (10th Cir. 2010). To meet this burden, a party seeking a preliminary injunction must show: (1) a likelihood of success on the merits, (2) a threat of irreparable harm, which (3) outweighs any harm to the non-moving party, and that (4) the injunction would not adversely affect the public interest. See, e.g., *Awad v. ZiriAx*, 670 F.3d 1111, 1125 (10th Cir. 2012).

Plaintiff has not made the requisite showing to justify this extraordinary relief, for at least three reasons.

First, the principal and most imminent injury of which Plaintiff complains is the threatened and impending suspension of his drivers' license. (See ECF No. 132 at 2; 4–5, 9.)¹ Accordingly, he seeks an injunction to halt the Colorado Department of

¹ The Court accepts Plaintiff's "Verified Complaint for Emergency Temporary Restraining Order and Preliminary Injunction" (ECF No. 132) only for purposes of treating it as a declaration supporting his request for injunctive relief. See Fed. R. Civ. P. 65(b)(1)(A). The Court does not accept this filing as an amendment of Plaintiff's claims, nor does it treat this filing as effecting any alteration to Plaintiff's operative complaint for pleading purposes, given that it does not comply with any rule governing amendment of claims. See *generally* Fed. R. Civ. P. 15(a); see *also* ECF Nos. 163, 169, 170. Accordingly, the Joint Motion to Dismiss Plaintiff's Verified Complaint for Emergency Temporary Restraining Order and Preliminary Injunction, filed by certain Defendants (ECF No. 164), is GRANTED IN PART to the extent that Plaintiff's present filings (including ECF No. 132) has no effect on his pending claims for relief, but is DENIED IN PART to the extent these defendants seek dismissal with prejudice of any pending claims and request attorneys' fees or other relief.

Revenue, Division of Motor Vehicles (the “DMV”) from suspending his drivers’ license. However, Plaintiff has not brought any claims against the DMV, and the DMV has not been named or served as a party. The Court therefore has no jurisdiction over the DMV or any of its agents. Plaintiff’s request for a preliminary injunction indefinitely halting the threatened suspension of his drivers’ license until his claims may be adjudicated thus cannot be granted. While the Court might, in theory, enter an *ex parte* temporary restraining order, there is no basis to do so, given no indication that the Court will gain jurisdiction over the DMV in the future. Moreover, such relief would soon expire, see Fed. R. Civ. P. 65(b)(2), and so would hardly resolve the injury of which Plaintiff complains. The Court therefore cannot grant the relief which Plaintiff seeks as to the suspension of his drivers’ license.

Second, to the extent Plaintiff also complains of and seeks to enjoin the “garnishment of [his] wages, earnings and financial assets” (ECF No. 132 at 2), in addition to the suspension of his drivers’ license, the Court finds that he has not made a sufficient showing of irreparable harm to justify a preliminary injunction or temporary restraining order. “To constitute irreparable harm, an injury must be certain, great, actual and not theoretical. Irreparable harm is not harm that is merely serious or substantial.” *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1189 (10th Cir. 2003). Rather, the party seeking relief must show “a clear and present need for equitable relief to prevent irreparable harm.” *Id.* “It is also well settled that simple economic loss usually does not, in and of itself, constitute irreparable harm; such losses are compensable by monetary damages.” Although Plaintiff’s motions and supporting

filings state in conclusory fashion the present actions “will cause Plaintiff to become immediately insolvent,” and will “forc[e] him to become homeless and cause loss of property” (ECF No. 132 at 8), he has not supported this claim or explained how it would occur.² Plaintiff has, at most, made allegations that he will suffer serious or substantial harm in the form of economic loss. These allegation fall short of establishing *irreparable* harm. Likewise, he has not shown that suspension of his drivers’ license will cause *irreparable* harm absent injunctive relief. See *Heideman*, 348 F.3d at 1189.

Third, Plaintiff has not shown that he has a likelihood of success on the merits. See *Awad*, 670 F.3d at 1125. Many if not all of Plaintiff’s claims appear to be best understood as either requests for injunctive relief to halt ongoing state adjudicatory proceedings, and/or as a collateral attack on the lawfulness of final state court judgments and orders. As such, it is likely this Court ultimately cannot grant Plaintiff relief on these claims, under the *Younger* abstention and/or *Rooker-Feldman* doctrines. See generally *Sprint Commc’ns, Inc. v. Jacobs*, 134 S. Ct. 584, 588 (2013) (*Younger* abstention applies to ongoing “civil enforcement proceedings,” in state courts and to “civil proceedings involving certain orders that are uniquely in furtherance of the state courts’ ability to perform their judicial functions”); *Wideman v. Colorado*, 242 F. App’x 611, 613–14 (10th Cir. 2007) (*Rooker-Feldman* doctrine “bars any ‘action in federal court that alleges an injury ‘inextricably intertwined’ with a state court decision, such that

² Plaintiff submitted a copy of a bank notice of garnishment and a writ of garnishment issued by the Denver District Court. (ECF No. 132-2.) Although these reflect imposition of a garnishment against a bank account in Plaintiff’s name, they also reflect an account balance of only \$6.60 on the date the bank received the garnishment order, and that no funds were garnished. This makes no showing of financial harm, far less irreparable harm.

success in the federal court would require overturning the state court decision” (quoting *Epps v. Creditnet, Inc.*, 320 F.3d 756, 758–59 (7th Cir.2003) (collecting cases))).

Finally, to the extent Plaintiff’s present filings seek to assert any new claims for relief not already pending, including allegations of witness tampering or retaliation in violation of 18 U.S.C. §§ 1512 & 1513, he has not been granted leave to amend his claims and lacks standing to pursue claims under these criminal statutes.

Conclusion

Accordingly, for the reasons set forth above, the Court ORDERS as follows:

1. Plaintiff’s “Emergency Motion for Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue” (ECF No. 131) is DENIED;
2. Plaintiff’s “Emergency Motion for Court Review of ECF # 131 and # 132 and to GRANT TRO *Instante*” (ECF No. 181) is GRANTED to the extent the Court has now provided the review requested, but is in all other respects DENIED;
3. The “Colorado Defendants’ and Denver Defendants’ Joint Motion to Dismiss Plaintiff’s Verified Complaint for Emergency Temporary Restraining Order and Preliminary Injunction” (ECF No. 164) is GRANTED IN PART and DENIED IN PART, as set forth above; and
4. The Motion by Defendants Rebecca Murray, et al. for Joinder in ECF No. 164 (ECF No. 173) is GRANTED.

Dated this 21st day of July, 2017.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William J. Martínez", written over a horizontal line.

William J. Martínez
United States District Judge