

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

TRIPLE “S” WILDLIFE RANCH and)
STEVEN M. SEIBERT,)
)
Plaintiff,)
)
v.)
)
STATE OF OKLAHOMA *ex rel.*)
OKLAHOMA DEPARTMENT OF)
WILDLIFE CONSERVATION, et al.,)
)
Defendants.)

Case No. CIV-14-395-RAW

ORDER

This matter came on for hearing on November 4, 2014 on plaintiff’s motion for preliminary injunction. For the reasons stated at the hearing, the action is dismissed. The court heard testimony of defendant Ricky Rushing and determined that no further testimony was necessary for the court to render its decision.


Abstention under *Younger v. Harris*, 401 U.S. 37 (1971) is warranted when (1) there are ongoing state criminal, civil or administrative proceedings; (2) the state court offers an adequate forum to hear the federal plaintiff’s claims from the federal lawsuit; and (3) the state proceeding concerns important state interests, matters which traditionally look to state law for their resolution or implicate separately articulated state policies. *See Lyman v. San Juan County*, 2014 WL 5293700 (10th Cir.2014). The court found these elements satisfied in the present case.

Some disagreement (between defendants) was presented about (1) the fact that this case was filed before the criminal prosecution began and (2) this action did not seek to enjoin the state prosecution itself. As to (1), the court is persuaded “the doctrine also may apply even when the state prosecution begins after the federal complaint has been filed.” *See Kingston v. Utah County*, 161 F.3d 17, *3 (10th Cir.1998)(emphasis added). As to (2), the court finds indirect interference may nevertheless be present. “Effectively, by seeking declaratory and injunctive relief from this Court, Plaintiffs are challenging the warrant (or warrants) which are involved in a proceeding before the state Court, and these issues are not properly before the Court.” *Smith v. Lexington-Fayette Urban County Government*, 2008 WL 5110762 (E.D.Ky.2008).

It is the order of the court that this action is hereby dismissed without prejudice.

ORDERED THIS 4th DAY OF NOVEMBER, 2014.

Dated this 4th day of November, 2014.



Ronald A. White
United States District Judge
Eastern District of Oklahoma