

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

THOMAS ROACH,

Plaintiff,

1:14-cv-00583-CL

v.

ORDER

JOHN SNOOK; NORTHWEST TRUSTEE
SERVICES, INC.; CITIMORTGAGE,

Defendants.

PANNER, District Judge:

This matter comes before the Court on Plaintiff's Motion for a Temporary Restraining Order (TRO) (#4). Plaintiff, proceeding pro se, seeks to enjoin the eviction order apparently issued by the Josephine County Circuit Court. Because of the prohibitions on enjoining ongoing state proceedings and because Plaintiff has not shown a likelihood of success on the merits of this case, I DENY the motion.

The standard for a temporary restraining order (TRO) is essentially identical to the standard for a preliminary injunction. See Stuhlberg Intern. Sales Co., Inc. v. John D.

Brush and Co., Inc., 240 F.3d 832, 839, n. 7 (9th Cir. 2001); see also Sam v. Deutsche Bank Nat. Trust Co., 3:13-cv-1521-MO, 2013 WL 6817888 (D. Or. Dec. 23, 2013).

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008).

Further, a TRO may only be issued without notice to the adverse party if the moving party shows "specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition[,] and "the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required." Fed. R. Civ. P. 65(b)(1).

As a final matter, the court may issue a temporary restraining order "only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c).

In this case, it appears that Plaintiff is facing eviction as part of a Forcible Entry and Detainer (FED) proceeding initiated in Josephine County Circuit Court. Under the Anti-Injunction Act, a federal court may not stay proceedings in state courts "except as expressly authorized by Act of Congress, or where necessary in

aid of its jurisdiction, or to protect or effectuate its judgment." 28 U.S.C. § 2283. The Anti-Injunction Act serves as an absolute bar to federal injunctions of state court proceedings except within the three narrowly defined exceptions laid out by the Act itself. Vendo Co. v. Lektro-Vend Corp., 433 U.S. 623, 630 (1977). The Court cannot place the facts of this case within any of the narrow exceptions to the Anti-Injunction Act.

The Court acknowledges that eviction is a serious and potentially irreparable harm. However, Plaintiff appears to seek to reverse the foreclosure of the property at issue and the sale of the property to a private party. Although the allegations put forward by Plaintiff are not entirely clear, post-sale challenges to completed foreclosure proceedings are generally barred. See Mikityuk v. Northwest Trustee Serv., Inc., 952 F. Supp. 2d 958 (D. Or. 2013). Accordingly, the Court cannot conclude that Plaintiff has shown a likelihood of success on the merits. On balance, the Court finds that Plaintiff has not met the requirements for the issuance of a TRO.

Conclusion

Plaintiff's Motion for a Temporary Restraining Order (#4) is DENIED.

IT IS SO ORDERED.

DATED this 11 day of April, 2014.



OWEN M. PANNER
U.S. DISTRICT JUDGE