

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Michael Johnson, et al.,)	
)	C/A No. 1:10-CV-2557-MBS-PJG
Petitioner,)	
)	
vs.)	O R D E R
)	
Taylor Bean Whitaker Mortgage Corp.;)	
MERS; John Doe; and Jane Doe,)	
)	
Respondents.)	
_____)	

This matter is before the Court on pro se Petitioner Michael Johnson's emergency motion for a temporary restraining order ("TRO") and preliminary injunction (the "Motion") to suspend foreclosure of his home. ECF No. 2. Petitioner filed this action and the Motion on October 1, 2010. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling.

The Magistrate Judge issued a Report and Recommendation ("R&R") addressing the Motion the same day that it was filed. ECF No. 6. Because Petitioner failed to certify, in writing, any efforts that he had made to notify Respondents or explain why notice should not be required, the Magistrate Judge recommended that this court deny the Motion to the extent that it seeks an ex parte restraining order and set a hearing on Petitioner's motion for a preliminary injunction with notice to all parties. Id. at 2-3.¹ The R&R was mailed to Petitioner with a notice advising Petitioner that any specific written objections must be filed with the court within fourteen days of the date of service of the

¹ Counsel for the lender has advised the clerk of court's office that the foreclosure sale will be postponed until after the parties can be heard on the Motion. R&R 2, ECF No. 6.

R&R. Id. at 4. Given the stated urgency of Petitioner's Motion, the court reset the objection deadline to October 12, 2010.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the R&R to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Petitioner has not objected to the R&R and the court hereby adopts and incorporates it by reference. The case shall be recommitted to the Magistrate Judge for a hearing on Petitioner's motion for a preliminary injunction as soon as possible prior to the next public auction in Aiken County, and any other proceedings necessary to address Petitioner's claims.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

October 13, 2010