

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA


Daniel Ray Setliff,)	
)	
Plaintiff,)	Civil Action No. 4:14-2583-RMG
)	
vs.)	
)	
Ben Fountain; David Fountain;)	
Fountain Enterprises LLC; d/b/a)	
Spring Branch Mobile Home Park,)	
)	ORDER
Defendants.)	
)	
_____)	

This matter comes before the Court on a Report and Recommendation (“R & R”) from the Magistrate Judge recommending that the Court deny Plaintiff’s motion for a temporary injunction, dismiss partially that portion of the Complaint seeking injunctive relief and stay this federal court action pending the conclusion of an ongoing and related state court eviction action. (Dkt. No. 34). Plaintiff was advised that any written objections to the R & R must be made within 14 days of the service of the R & R. (*Id.* at 9). Plaintiff was further advised that in the absence of timely written objections this Court would provide limited “clear error” review and Plaintiff would waive his right to appeal the judgment of the District Court. (*Id.*). No timely written objections were made.

The Court has reviewed the R & R, the pleading in this matter and the relevant legal authorities. The Court finds that the Magistrate Judge ably and properly summarized the factual and legal issues and appropriately recommended, in light of *Younger v. Harris*, 401 U.S. 37 (1971) and the strong abstention principles associated with federal court interference in pending

state court proceedings, that temporary injunctive relief would not be appropriate under these circumstances. Further, the Magistrate Judge, relying upon the same *Younger* principles, appropriately recommended that the portion of Plaintiff's Complaint seeking injunctive relief should be struck and that this Court should stay the federal court action pending the outcome of the ongoing state eviction proceeding. Therefore, the Court adopts the R & R of the Magistrate Judge as the order of this Court. Consequently, the Court (1) denies Plaintiff's motion for a temporary injunction; (2) strikes that portion of the Complaint seeking injunctive relief; and (3) stays this action pending completion of the ongoing state eviction proceeding with instructions that counsel for Defendant shall advise the Court within 14 days of the completion of the state court action.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court

Charleston, South Carolina
September 24, 2014