

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DALE A. KRIZAN,

Plaintiff,

v.

UNITED FCS, PCA and
MALLERY & ZIMMERMAN, S.C.,

Defendants.

OPINION AND ORDER

12-cv-944-bbc

Acting on his own behalf, plaintiff Dale Krizan has filed a document titled “Motion to Stop Foreclosure/Motion to Stop Sale of Home,” dkt. #1, which I construe as a civil complaint seeking injunctive relief and attempting to raise claims under the Truth in Lending Act, Home Ownership Equity Protection Act and other federal and state causes of action. Plaintiff filed this case after judgment of foreclosure was entered against him in the Circuit Court for Taylor County in case no. 10-cv-209 (Apr. 12, 2012). Defendants United FCS, PCA and Mallery & Zimmerman, S.C. have filed a motion to dismiss the case.

Plaintiff was given until February 8, 2013 to submit a response to defendants’ motion to dismiss. He has failed to respond, instead submitting a document titled “Emergency Motion to Stay Confirmation of Sale” as well as a motion for an extension of time to respond to defendants’ motion to dismiss. Looking at the history of plaintiff’s state court case and his previous and current filings in this court, it is clear that plaintiff’s motion for

an extension of time is nothing more than an attempt to delay the state foreclosure proceedings, so I will deny the motion.

Turning to defendants' motion to dismiss, I will grant the motion to the extent defendants seek dismissal under the Rooker-Feldman doctrine. This doctrine prohibits federal courts other than the Supreme Court from exercising subject matter jurisdiction when the federal plaintiffs allege that their injury was caused by a state court judgment. Exxon Mobil Corp.v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005); see also Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). In addition, the Rooker-Feldman doctrine "precludes federal jurisdiction over claims 'inextricably intertwined' with a state court determination . . . even when those claims were never argued in the state court." Remer v. Burlington Area School District, 205 F.3d 990, 996 (7th Cir. 2000). Even if plaintiff has federal law claims under the Truth in Lending Act or some other law, he cannot raise them in this court when he either failed to raise the claims in his state court foreclosure action or raised them unsuccessfully. Plaintiff's recourse is in the state appellate system, not in the federal district court, which has no authority to overturn a state court judgment such as the judgment of foreclosure issued by the state court in the Taylor County proceedings. Accordingly, this case must be dismissed for lack of jurisdiction.

ORDER

IT IS ORDERED that

1. Plaintiff Dale Krizan's motion for an extension of time to file his response to defendants United FCS, PCA and Mallery & Zimmerman, S.C.'s motion to dismiss, dkt. #11, is DENIED.

2. Defendants' motion to dismiss, dkt. #5, is GRANTED and this case is DISMISSED for lack of jurisdiction. The clerk of court is directed to enter judgment for defendants and close this case.

Entered this 8th day of February, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge