

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

CALEB WALSH,

Plaintiff,

v.

Case No. 8:19-cv-1110-T-33TGW

CARSWELL CHEROKEE TRUST, et al.,

Defendants.

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**ORDER**

This matter is before the Court on consideration of United States Magistrate Judge Thomas G. Wilson's Report and Recommendation (Doc. # 13), filed on May 24, 2019, recommending that Plaintiff Caleb Walsh's Emergency Motion for Preliminary Injunction (Doc. # 8) be denied and that this case be transferred to the Southern District of Georgia pursuant to 28 U.S.C. § 1406. On May 29, 2019, Walsh filed an Objection to the Report and Recommendation. (Doc. # 15). The Court accepts and adopts the Report and Recommendation, overrules Walsh's Objection, denies the Emergency Motion for Preliminary Injunction, and instructs the Clerk to transfer this case to the Southern District of Georgia.

## **I. Background**

On May 5, 2019, Walsh initiated this action based on the Court's diversity jurisdiction seeking to enjoin the pending foreclosure of several properties that had allegedly been "formally sold/financed" to him by Defendants. (Doc. # 1 at 5). All of the Defendants are residents of Georgia. (Id. at 2).

On May 10, 2019, Walsh filed an "Emergency Motion for Hearing" seeking an injunction to prevent the foreclosure of several properties (Doc. # 3), which the Court denied. (Doc. # 5). On May 23, 2019, Walsh filed a "Notice of Motion and Emergency Motion for Preliminary Injunction" again seeking injunctive relief from state court foreclosure proceedings. (Doc # 8). The Court referred that Motion for a Report and Recommendation (Doc. # 12), which Judge Wilson filed on May 24, 2019. (Doc. #13).

## **II. Discussion**

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that a district

judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendation. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994).

Upon due consideration of the record, including Judge Wilson's Report and Recommendation and Walsh's Objection thereto, the Court overrules the Objection and adopts the Report and Recommendation. The Court agrees with Judge Wilson that there is no basis for injunctive relief because Walsh does not appear to state a cognizable claim. (Doc. # 13 at 1). The Court also agrees with Judge Wilson's conclusion that venue is not proper in this Court because, while Walsh resides within the Middle District of Florida, all of the Defendants and eight of the nine subject properties reside in Georgia. (Id. at 2-3).

While the Court recognizes that the time for Defendants to file a response to Walsh's Objection to the Report and Recommendation has not yet expired, the Court deems a response unnecessary under these circumstances. The Report and

Recommendation thoughtfully addresses the issues presented, and the Objection does not provide a basis for rejecting the Report and Recommendation.

Accordingly, it is now

**ORDERED, ADJUDGED, and DECREED:**

- (1) The Report and Recommendation (Doc. # 13) is **ACCEPTED** and **ADOPTED**.
- (2) Plaintiff Caleb Walsh's Emergency Motion for Preliminary Injunction (Doc. # 8) is **DENIED**.
- (3) The Clerk is directed to **TRANSFER** this case to the Southern District of Georgia.

**DONE and ORDERED** in Chambers in Tampa, Florida, this 7th day of June, 2019.

  
VIRGINIA M. HERNANDEZ COVINGTON  
UNITED STATES DISTRICT JUDGE