

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DAVID JONATHAN TULIS,)	
)	
Plaintiff,)	
)	No. 3:24-cv-01226
v.)	
)	
DAVID GERRAGANO, <i>Commissioner of Revenue, in his personal capacity and in his official capacity, et al.,</i>)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

David Jonathan Tulis, a resident of Soddy-Daisy, Tennessee, filed this pro se action against Tennessee Commissioner of Revenue David Gerragano (“the Commissioner”) and the “State of Tennessee, Department of Revenue.” (Doc. No. 1). This case concerns the authority of the Commissioner to administer the Electronic Insurance Verification Program (the “EIVP”) to ensure that the owners of motor vehicles registered in Tennessee are complying with the state’s financial responsibility laws. Plaintiff has paid the full civil filing fee in this case. (Id., Attach. 2).

I. MOTION FOR PRELIMINARY INJUNCTION

After filing his complaint, Plaintiff filed a a Motion for Preliminary Injunction (Doc. No. 8) and a brief in support of the motion (Doc. No. 9). The motion seeks immediate injunctive relief; thus, the Court construes the motion as also requesting a temporary restraining order (“TRO”). See Ohio Republican Party v. Brunner, 543 F.3d 357, 361 (6th Cir. 2008) (because, in the Sixth Circuit, the “same factors [are] considered in determining whether to issue a TRO (Temporary Restraining Order) or preliminary injunction”, the Court can evaluate both a TRO motion and a motion seeking a preliminary injunction by the same analysis). As explained below, however, the Court cannot consider the merits of the motion in its current form.

In this district, a movant seeking a temporary restraining order must comply with specific procedural requirements. First, “any request for a TRO” must be made by written motion “separate from the complaint.” M.D. Tenn. L.R. 65.01(a). Second, because the movant bears the burden of justifying preliminary injunctive relief on the merits, Kentucky v. U.S. ex rel. Hagel, 759 F.3d 588, 600 (6th Cir. 2014), a TRO motion must be accompanied by a memorandum of law. M.D. Tenn. L.R. 65.01(b). Third, the motion for a TRO must be supported, at a minimum, by “an affidavit or a verified complaint.” Fed. R. Civ. P. 65(b)(1)(A); M.D. Tenn. L.R. 65.01(b) (explaining that a motion for a TRO “must be accompanied by a separately filed affidavit or verified written complaint”). Finally, the moving party must certify in writing “any efforts made to give notice and why it should not be required.” Fed. R. Civ. P. 65(b)(1)(B); see also M.D. Tenn. L.R. 65.01(c) (requiring “strict compliance” with this notice provision by pro se moving parties).

Here, although Plaintiff appears to have complied with the other requirements, Plaintiff has not explained in writing what particular efforts he made to give notice to Defendants or why notice should not be required prior to seeking emergency injunctive relief. As noted above, this district requires “strict compliance” with the notice provision by pro se parties such as Plaintiff. Thus, Plaintiff has not placed specific facts before the Court in a manner allowing it to fairly evaluate his motion seeking immediate emergency relief on the merits. Accordingly, the Court **DENIES** Plaintiff’s motion. (Doc. No. 8). The denial is without prejudice to Plaintiff’s ability to file a procedurally compliant motion, if appropriate.

II. CONCLUSION AND REFERRAL


Having paid the filing fee, Plaintiff is responsible for effecting timely and proper service of process on Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. Information for pro se litigants regarding service of process and other aspects of pro se litigation is available free

of charge on the Court's website at <https://www.tnmd.uscourts.gov/pro-se-nonprisoner-litigation-self-help-resources> and in print at the Clerk's Office front counter.¹

Plaintiff alleges in his complaint that the Court has federal jurisdiction over his claims. (See Doc. No. at PageID# 6). However, Defendant Gerragano has filed a Motion for Abstention (Doc. No. 5) in which he moves the Court to abstain from further proceedings in this action under the doctrine of Younger v. Harris, 401 U.S. 37 (1971). He alleges that the proceedings concerning the authority of the Commissioner to administer Tennessee statutes, including the Commissioner's suspension of the vehicle registration certificate issued to Plaintiff, constitute an ongoing state proceeding in which Plaintiff can raise constitutional claims. Plaintiff has responded in opposition to the motion (Doc. No. 6), and Defendant Gerragano has filed a reply (Doc. No. 7). The motion is ripe for resolution.

This action is **REFERRED** to the Magistrate Judge to oversee service of process, to enter a scheduling order for the management of the case, to dispose or recommend disposition of any pretrial motions under 28 U.S.C. §§ 636(b)(1)(A) and (B), and to conduct further proceedings, if necessary, under Rule 72(b) of the Federal Rules of Civil Procedure and the Local Rules of Court.

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
UNITED STATES DISTRICT JUDGE

¹ As represented by Gerragano, Defendant Tennessee Department of Revenue did not join in Gerragano's Motion for Abstention because Defendant alleges that Plaintiff failed to properly serve Defendant "State of Tennessee, Department of Revenue." (See Doc. No. 5, Attach. 1 at PageID# 114-15).