

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARK S. GIETZEN,

Plaintiff,

v.

Case No. 6:15-cv-01380-JTM

BENEFICIAL MORTGAGE CORPORATION,

Defendant.

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's *pro se* "Emergency Motion for Protection of Personal Property" (Dkt. 16). Plaintiff filed the motion a few days after this court granted him an extension of time until April 13, 2016, to respond to defendant's pending motion to dismiss. In his "Emergency Motion," plaintiff asks the court to prevent defendant from disposing of his personal property "in spite of ... [state] Case 08CV4688 orders ... that may permit such disposal." Dkt. 16 at 2. The latter is a reference to a mortgage foreclosure action pending in state court.

Plaintiff's motion fails to cite any basis for this court to interfere with an ongoing state proceeding. *See* 28 U.S.C. § 2283 ("A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments."). It also fails to cite or address any of the requisites for a preliminary injunction. "[A] preliminary injunction is an extraordinary and drastic remedy, one that

should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (citation omitted). Plaintiff has failed to meet his burden of proof.

IT IS THEREFORE ORDERED this 1st day of April, 2016, that plaintiff's "Emergency Motion for Protection of Personal Property" (Dkt. 16) is DENIED.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE