

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

David Anthony Babb; DAB, LLC v. Edwina Mathis Wait

Babb v. Wait · No. 2:25-cv-13417-RMG-MHC · Decided December 9, 2025

SUMMARY

This Report and Recommendation addresses motions by David Anthony Babb for a preliminary injunction or, alternatively, a temporary restraining order concerning enforcement of South Carolina watercraft-abandonment laws and a potential arrest. The magistrate judge recommends denying the motions without prejudice because the action had not been served, the requested relief was premature, and any challenge to pending state criminal charges was subject to Younger abstention. The recommendation also advises dismissing DAB, LLC without prejudice because the plaintiff, proceeding without counsel, may not represent a limited liability company in federal court.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	December 9, 2025
DOCKET	2:25-cv-13417-RMG-MHC
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Plaintiffs' motions for a preliminary injunction and on whether DAB, LLC should remain a party when Plaintiff Babb is proceeding without counsel.
STANDARD OF REVIEW	For objections to the report and recommendation, the district judge must conduct de novo review of properly objected-to portions and may accept unobjected-to portions after satisfying itself that there is no clear error on the face of the record.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	David Anthony Babb, DAB, LLC v. Edwina Mathis Wait, in her official capacity as a South Carolina Department of Natural Resources Officer

TOPICS

injunctions

civil procedure

criminal procedure

limited liability companies

constitutional law

PRACTICE AREAS

civil procedure

constitutional law

criminal procedure

corporate law

injunctive relief

QUESTIONS PRESENTED

1. Whether Babb's motions for a preliminary injunction were premature because the action had not yet been served and Rule 65(a)(1) requires notice to the adverse party.
2. Whether any request for a temporary restraining order should be denied because the Rule 65(b)(1) requirements were not satisfied and the requested relief appeared to exceed the fourteen-day limit in Rule 65(b)(2).
3. Whether Younger abstention barred federal equitable intervention in Babb's pending state criminal proceedings.
4. Whether the federal district court had mandamus jurisdiction to prevent a state officer from arresting Babb.
5. Whether Babb could represent DAB, LLC in federal court without a licensed attorney.

HOLDINGS

1. The preliminary-injunction motions should be denied without prejudice because the action had not yet been served and Rule 65(a)(1) permits a preliminary injunction only on notice to the adverse party.
2. Any request for a temporary restraining order should be denied because the asserted relief appeared to exceed fourteen days and Babb did not appear able to satisfy Rule 65(b)(1)(B)'s attorney-certification requirement.
3. Younger abstention applied because ongoing state criminal proceedings implicated important state interests and provided Babb an adequate opportunity to raise his federal claims; no special circumstances justified federal pretrial intervention.
4. The district court lacked mandamus jurisdiction to order a state officer not to arrest Babb.
5. Babb could not represent DAB, LLC pro se; DAB, LLC should therefore be dismissed without prejudice as a party unless represented by licensed counsel.

KEY QUOTATIONS

"The court may issue a preliminary injunction only on notice to the adverse party."

"except in the most narrow and extraordinary of circumstances." (401 U.S. at 43-44)

"Corporations may only appear in this federal court and litigate through a licensed attorney who is formally admitted to practice and in good standing with this Court."

FACTUAL BACKGROUND

Babb and DAB, LLC sued a South Carolina Department of Natural Resources officer concerning enforcement of South Carolina provisions governing abandoned or derelict vessels. Babb sought preliminary injunctive relief based on his assertion that Defendant intended to obtain and execute an arrest warrant against him. Charleston County records indicated that Babb had been arrested on December 9, 2025, on two charges involving causing or allowing a vessel to become abandoned or derelict and had been released on personal-recognizance bonds. Babb, who did not assert that he was an attorney, also appeared to be attempting to litigate claims on behalf of DAB, LLC.

PROCEDURAL HISTORY

Plaintiffs filed a civil action under 42 U.S.C. § 1983 and filed an amended complaint on November 19, 2025. Plaintiff Babb moved for a preliminary injunction and filed an amended motion seeking to prevent Defendant from enforcing South Carolina derelict-vessel provisions and, apparently, from arresting him. The motions were referred to the assigned magistrate judge for pretrial proceedings under 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2). The magistrate judge recommended denying both injunction motions without prejudice and dismissing DAB, LLC without prejudice because Babb could not represent the LLC pro se, subject to the parties' right to object and district-judge review.

DISPOSITION

other

CASES CITED

- *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County*, 415 U.S. 423, 438-39 (1974)
- *Demorcy v. Cook*, No. CA 8:13-1494-JFA-JDA, 2013 WL 5332146 (D.S.C. Sept. 23, 2013)
- *Younger v. Harris*, 401 U.S. 37, 43-44 (1971)
- *Gilliam v. Foster*, 75 F.3d 881, 903-04 (4th Cir. 1996)
- *Martin Marietta Corp. v. Maryland Commission on Human Relations*, 38 F.3d 1392, 1396 (4th Cir. 1994)
- *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S. 423, 432 (1982)
- *Boyd v. South Carolina*, No. 1:11-cv-02981-TMC-SVH, 2012 WL 786341, at *2 (D.S.C. Feb. 10, 2012)
- *Kelly v. Robinson*, 479 U.S. 36, 49 (1986)
- *Dickerson v. Louisiana*, 816 F.2d 220, 224-26 (5th Cir. 1987)
- *Moore v. DeYoung*, 515 F.2d 437, 449 (3d Cir. 1975)
- *Drayton v. Hayes*, 589 F.2d 117, 121 (2d Cir. 1979)
- *United States v. MacDonald*, 435 U.S. 850 (1978)
- *Gurley v. Superior Court of Mecklenburg County*, 411 F.2d 586, 587 (4th Cir. 1969)
- *Pridgen v. Andresen*, 113 F.3d 391, 392-93 (2d Cir. 1997)
- *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 202 (1993)
- *Days Inn Worldwide, Inc. v. JBS, Inc.*, No. 4:08-cv-1771-TLW-TER, 2010 WL 625391 (D.S.C. Feb. 19, 2010)

- In re Under Seal, 749 F.3d 276, 290 n.17 (4th Cir. 2014)
- United States v. Hagerman, 545 F.3d 579, 581-82 (7th Cir. 2008)
- United States ex rel. Mergent Services v. Flaherty, 540 F.3d 89, 92 (2d Cir. 2008)
- U.S. Commodity Futures Trading Commission v. OTC Investments LLC, No. 1:15-cv-00081, 2015 WL 3397066, at *1 (W.D.N.C. May 26, 2015)
- Tisdale v. South Carolina Highway Patrol, No. 0:09-1009-HFF-PJG, 2009 WL 1491409, at *1 n.1 (D.S.C. May 27, 2009)
- In re Katrina Canal Breaches Consolidated Litigation, No. 05-4182, 2008 WL 4185869, at *2 (E.D. La. Sept. 8, 2008)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Wright v. Collins, 766 F.2d 841 (4th Cir. 1985)
- United States v. Schronce, 727 F.2d 91 (4th Cir. 1984)