

United States Court of Appeals
For the Eighth Circuit

No. 16-3276

Noah Steffy

Plaintiff - Appellant

v.

City of Fort Smith, et al.

Defendants - Appellees

Appeal from United States District Court
for the Western District of Arkansas - Ft. Smith

Submitted: March 17, 2017

Filed: March 22, 2017

[Unpublished]

Before WOLLMAN, BOWMAN, and LOKEN, Circuit Judges.

PER CURIAM.

After Noah Steffy was served with a 7 Day Clean-Up Notice for violations of City of Fort Smith, Arkansas, nuisance ordinances and the City scheduled a final inspection, Steffy filed this 42 U.S.C. § 1983 action seeking to enjoin this enforcement of the ordinances as violating his federal constitutional rights. Some weeks later, a criminal summons issued ordering Steffy to appear in Sebastian County

District Court on a charge of failure to maintain premises, and defendants moved to dismiss this federal action under abstention principles established in Younger v. Harris, 401 U.S. 37 (1971). With the state criminal case pending, the district court¹ granted that motion. Steffy appeals dismissal of his *pro se* action. Reviewing the district court's application of Younger abstention for abuse of discretion, we affirm. See Norwood v. Dickey, 409 F.3d 901, 903 (8th Cir. 2005) (standard of review).

Younger abstention is appropriate if “the action complained of constitutes an ongoing state judicial proceeding; . . . the proceedings implicate important state interests; . . . there is an adequate opportunity in the state proceedings to raise constitutional challenges . . . [and the federal court does not detect] bad faith, harassment, or some extraordinary circumstance that would make abstention inappropriate.” Night Clubs, Inc. v. City of Fort Smith, Ark., 163 F.3d 475, 479 (8th Cir. 1998) (quoting and citing Middlesex County Ethics Comm. v. Garden State Bar Ass’n, 457 U.S. 423, 435 (1982)). “[T]he state proceeding must be ongoing at the time the district court enters its order regarding abstention.” Id. at 480. Here, the state criminal prosecution was ongoing at the time of dismissal, the enforcement of nuisance ordinances implicates important state interests, and Steffy failed to show that he could not raise his constitutional challenge in state court or that the prosecution was brought in bad faith or to harass.

Accordingly, we affirm the Order of the district court but modify the dismissal to clarify that it is without prejudice. See Anderson v. Schultz, 871 F.2d 762, 766 (8th Cir. 1989).

¹The Honorable Mark E. Ford, United States Magistrate Judge for the Western District of Arkansas, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).