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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7
8 CHUCK PILLON,

Plaintiff,

v.

9
10 SCOTT MARLOW, et al.,

Defendants.
11
12

CASE NO. 2:19-cv-00710 -BAT

**ORDER GRANTING MOTION TO
DISMISS OF DEFENDANT JULIA
GARRETT**

13 Defendant Judge Julia Garrett (“Judge Garrett”) moves pursuant to Fed.R.Civ.P.
14 12(b)(6), to dismiss the amended complaint of Plaintiff Chuck Pillon (“Pillon”). Defendant
15 Garrett contends dismissal is required because she has judicial immunity and the *Younger*
16 abstention doctrine dictates this Court should not hear this case. Dkt. 13. In a response entitled
17 “Interim Pleading,” Pillon argues he is entitled to summary judgment because the uncontested
18 facts show “grievous errors on the part of the two State agents here...Judge Julia Garratt and
19 AAG Scott Marlow.” Dkt. 15 at 5.

20 The Court finds that the motion to dismiss should be granted because Judge Garrett is
21 immune from liability and abstention by this court is appropriate because federal adjudication of
22 Pillon’s claims would interfere with a pending state court criminal matter.
23

REPORT AND RECOMMENDATION- 1

1 FACTUAL ALLEGATIONS

2 The State of Washington charged and convicted Pillon with unlawful dumping of solid
3 waste without a permit under RCW 70.95.240. Dkt. 7 (Affidavit of Exhibits to Amended
4 Complaint), Ex. 2, *State v. Pillon*, King County Superior Court Case No. 16-1-05983-6 KNT).
5 Pursuant to RCW 70.95.240(3)(c)(i), it is a gross misdemeanor for a person to litter a cubic yard
6 or more. If that occurs, the person shall pay a “litter cleanup restitution payment,” which “must
7 be the greater of twice the actual cost of removing and properly disposing of the litter, or one
8 hundred dollars per cubic foot of litter.” RCW 70.95.240(3)(c)(ii).

9 Pillon was also charged and convicted in the same case of violating the Hazardous Waste
10 Management Act (RCW 70.105.085(1)(b) & .010) and wrecking vehicles without a license with
11 a prior conviction (RCW 46.80.020). Dkt. 10, Exhibits 1-3, *State v. Pillon*, King County Superior
12 Court Case No. 16-1-05983-6 KNT) (Ex. 1—first amended information), (Ex. 2 – findings of
13 fact and conclusions of law), and (Ex. 3 – docket sheet showing conviction)).¹

14 King County Superior Court Judge Julia Garratt presided over the trial and Assistant
15 Attorney General Scott Marlow prosecuted the matter. Dkt. 6 at 3. After Pillon’s conviction, the
16 Superior Court had to determine the amount of payment, according to RCW 70.95.240(3)(c)(ii).
17 Given the scale of the litter on Pillon’s property, the State calculated that the volume of cubic
18 waste on the property was 558,419.88 cubic feet. Dkt. 7, Ex. 5 at 3.

19
20 _____
21 ¹ The Court takes judicial notice of the filings in *State v. Pillon* (King County Superior Court
22 Case No. 16-1-05983-6 KNT) and the documents attached to Pillon’s “Affidavit of Exhibits re
23 Amended Complaint” (Dkt. 7). *See e.g., Kimbro v. Miranda*, 735 F. App’x 275, 278 n.2 (9th Cir.
2018) (internal quotations and citations omitted) (“A court may consider exhibits attached to a
complaint, . . . as well as document[s] the authenticity of which [are] not contested, and upon
which the plaintiff’s complaint necessarily relies[,] even if they are not attached to the
complaint.”)

1 Rather than multiply that by \$100 under RCW 70.95.240(3)(c)(ii) to arrive at a
2 \$55,841,988 penalty, the State proposed that the Superior Court follow a stipulation between the
3 parties that Pillon brought 120 cubic yards of solid waste onto the property during the 12-month
4 charging period. *Id.* The State contended that the \$55 million was inappropriate. *Id.* That led to
5 a calculation under RCW 70.95.240(3)(c)(ii) of an award of \$3,888,000. *Id.* The Superior Court
6 agreed and entered an order setting litter cleanup restitution in the amount of \$3,888,000. Dkt. 7,
7 Ex. 2.

8 Pillon appealed to the Washington Court of Appeals, Division I. The parties' briefs have
9 been filed and the matter is presently awaiting decision. Dkt. 10, Ex. 4. In his appellate brief,
10 Pillon relies on the same factual allegations relating to the Superior Court's actions throughout
11 the trial to support an alleged violation of his federal rights. Dkt. 7, Ex. 12.

12 Pillon also brought an action in King County Superior Court regarding the water quality
13 near his property, which action led to a stipulation that Washington's Department of Ecology did
14 not need further water samples. Dkt. 7, Ex. 3. However, there is no apparent connection between
15 that stipulation and the solid waste on Pillon's property.

16 And finally, Pillon filed the lawsuit in this case, alleging violations under 42 U.S.C. §
17 1983 against the State of Washington, "in the persons of" AAG Marlow and Judge Garratt. Dkt.
18 6 at 1. Pillon alleges that AAG Marlow and Judge Garratt acted illegally throughout the course
19 of the trial, that the water quality in a nearby river on the property shows that there is no need for
20 further remediation, and Pillon was convinced not to allow individuals to stay on his property.
21 Dkt. 6.

1 Pillon asks the Court to vacate the litter cleanup restitution order, to order that all funds
2 be returned to Pillon, and to award “punitive penalties” for “the emotional and practical harm
3 Plaintiff has suffered.” *Id.* at 21.

4 LEGAL STANDARD

5 This Court should dismiss the amended complaint if the Court lacks jurisdiction over the
6 subject matter of the dispute, or if the plaintiff fails to state a claim upon which relief can be
7 granted. Fed. R. Civ. P. 12(b)(1), (6). In considering either basis for dismissal, the Court must
8 accept as true all material factual allegations in the complaint. *Keniston v. Roberts*, 717 F.2d
9 1295, 1300 (9th Cir. 1983). In deciding whether a complaint states a claim, the Court must
10 additionally draw all reasonable inferences in favor of the plaintiff. *Id.* at 1300. The Court is not,
11 however, required to accept as true a plaintiff’s legal or conclusory allegations. *Id.*; *Ashcroft v.*
12 *Iqbal*, 556 U.S. 662, 678 (2009).

13 When the question involves jurisdiction of the federal court, the plaintiff must
14 affirmatively establish jurisdiction, and that showing is not made by drawing inferences from the
15 pleadings. *Norton v. Larney*, 266 U.S. 511, 515 (1925); *Shipping Fin. Servs. Corp. v. Drakos*,
16 140 F.3d 129, 131 (2d Cir. 1998).

17 DISCUSSION

18 A. Judge Garratt – Judicial Immunity

19 Pillon alleges that Judge Garratt made statements during trial and sentencing that
20 exhibited bias. Dkt. 6 at 7-10.

21 Judges are absolutely immune from suits that arise from acts performed within their
22 judicial capacity. *See generally Stump v. Sparkman*, 435 U.S. 349, 98 S.Ct. 1099 (1978). Judicial
23 immunity applies even when a judge acts in excess of his or her authority. *Id.* at 356. This strong

1 immunity protects judicial independence by insulating judges from vexatious actions prosecuted
2 by disgruntled litigants. *Forrester v. White*, 484 U.S. 219, 225, 108 S.Ct. 538 (1988). This
3 immunity is immunity from suit, not a mere defense to liability, so a defendant with absolute
4 immunity is entitled to dismissal before the commencement of discovery. *Mitchell v. Forsyth*,
5 472 U.S. 511, 526-27, 105 S.Ct. 2806 (1985).

6 Because Pillon’s claims against Judge Garratt arise solely out of the state court
7 proceeding over which she presided as a King County Superior Court Judge, Judge Garratt is
8 entitled to absolute immunity and dismissal of the claims against her.

9 B. Younger Abstention Doctrine

10 Judge Garratt also contends that the amended complaint should be dismissed under the
11 *Younger* abstention doctrine. The *Younger* abstention doctrine is based on principles of equity
12 and comity. *Younger v. Harris*, 401 U.S. 37, 43-46 (1971). The equitable principle at play is that
13 courts should refrain from exercising their equitable powers when a movant has an adequate
14 remedy at law. Notions of comity require the federal government to let states be “free to perform
15 their separate functions in their separate ways.” *Id.* at 44. The Ninth Circuit applies a four-part
16 test to determine application of *Younger* abstention:

17 We must abstain under *Younger* if four requirements are met: (1) a state-initiated
18 proceeding is ongoing; (2) the proceeding implicates important state interests; (3)
19 the federal plaintiff is not barred from litigating federal constitutional issues in the
20 state proceeding; and (4) the federal court action would enjoin the proceeding or
21 have the practical effect of doing so, *i.e.*, would interfere with the state proceeding
22 in a way that *Younger* disapproves.

23 *San Jose Silicon Valley Chamber of Commerce Political Action Comm. v. City of San Jose*, 546
F.3d 1087, 1092 (9th Cir. 2008). Under these factors, *Younger* abstention applies.

1 First, Pillon's state court criminal matter is currently on appeal. *See* Dkt. 10 Ex. 4.
2 Second, the state court proceeding arises out of a prosecution that implicates important state
3 interests as the State of Washington has a strong interest in enforcing its criminal laws. Third,
4 Pillon has a full opportunity to raise his complaints in his case on appeal. Finally, federal
5 adjudication of Pillon's claims would interfere with the pending state court criminal matter. In
6 both actions, Pillon relies on the same factual allegations to support alleged violation of his
7 federal rights.

8 Accordingly, the interests of equity and comity dictate this Court should abstain from
9 adjudication of Pillon's claims because all four *Younger* abstention factors are satisfied and
10 federal adjudication of Pillon's claims would interfere with a pending state court criminal
11 matter.²

12 CONCLUSION

13 Based on the foregoing, the Court **grants** the motion to dismiss of Defendant Julia
14 Garratt (Dkt. 13) and **dismisses with prejudice** Plaintiff Chuck Pillon's claims against her.

15 DATED this 18th day of November, 2019.

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17 _____
18 BRIAN A. TSUCHIDA
19 Chief United States Magistrate Judge
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21 _____
22 ² As noted in the Order dismissing Pillon's claims against Scott Marlow and the State of
23 Washington (Dkt. 16 at 7-8), the *Rooker-Feldman* doctrine also precludes this Court from
exercising appellate jurisdiction over any final state-court judgments that have been or are
entered in King County Superior Court Case Nos. 18-2-24755-1-KNT and 16-1-05983-6 KNT.