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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DEMETRIUS KING BRASHEAR,
Petitioner,

v.

ROBERT LUNA,
Respondent.

Case No. CV 24-06682 WLH (RAO)

ORDER DISMISSING ACTION

I. INTRODUCTION

On July 10, 2024, Demetrius King Brashear (“Petitioner”), a state prisoner proceeding *pro se*, constructively filed a Petition for Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2254.¹ (ECF No. 1 (“Pet.”).) The Petition states that Petitioner was sentenced in Los Angeles County Superior Court on September 20, 2023. (Pet. at 2.)² Attached to the Petition are documents related to

¹ Under the “mailbox rule,” when a *pro se* petitioner gives prison or jail authorities a pleading to mail to court, the court deems the pleading constructively filed on the date it is signed. *Roberts v. Marshall*, 627 F.3d 768, 770 n.1 (9th Cir. 2010). Here, the Petition was filed in this Court on August 2, 2024.

² The Court refers to the Petition by using the page numbers assigned by the CM-ECF system.

1 that criminal case, which underlies this Petition, and Petitioner’s medical records.
2 (Pet. at 16-83.) As grounds for relief, Petitioner alleges that he was denied his
3 mental health medication for a lengthy period of time while incarcerated at a
4 California state prison, the jury in his criminal case was tainted, his appearance at
5 trial was defamatory, and he was denied access to the law library. (Pet. at 13-14.)

6 Because Petitioner’s criminal appeal is pending before the California State
7 Court of Appeal, the Court must abstain under *Younger v. Harris*, 401 U.S. 37
8 (1971), and dismiss the Petition without prejudice.

9 **II. DISCUSSION**

10 Federal courts must abstain from interfering in pending state proceedings
11 absent extraordinary circumstances that create a threat of irreparable injury.

12 *Younger*, 401 U.S. at 45–46. Abstention under *Younger* is warranted where the
13 state proceedings (1) are ongoing; (2) implicate important state interests; and (3)
14 provide an adequate opportunity to litigate the petitioner’s federal constitutional
15 claims. *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423,
16 432 (1982); *Dubinka v. Judges of Super. Ct. of State of Cal.*, 23 F.3d 218, 223 (9th
17 Cir. 1994). A petitioner may avoid *Younger* abstention by demonstrating the
18 presence of bad faith, harassment, or some other extraordinary circumstance
19 resulting in irreparable injury. *See Perez v. Ledesma*, 401 U.S. 82, 85 (1971).

20 First, this Court takes judicial notice of the publicly available state court
21 records³ showing that Petitioner’s appeal before the state appellate court remains
22 pending. *See Docket (Register of Actions)*, Appellate Courts Case Information: 2nd
23 Appellate District (last visited Aug. 13, 2024)

24 [https://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=2&doc_id=29](https://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=2&doc_id=2901536&doc_no=B334538&request_token=NiIwLSEnXkw3WyBFSCNNWetIME)
25 [01536&doc_no=B334538&request_token=NiIwLSEnXkw3WyBFSCNNWetIME](https://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=2&doc_id=2901536&doc_no=B334538&request_token=NiIwLSEnXkw3WyBFSCNNWetIME)

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27 ³ *See* Fed. R. Evid. 201; *Harris v. Cty. of Orange*, 682 F.3d 1126, 1131–32 (9th Cir.
28 2012) (holding a district court may take judicial notice of undisputed matters of
public record including documents on file in federal or state courts).

1 w6USxXICNeUzIRMCAgCg%3D%3D. The pendency of the matter before the
2 state court weighs in favor of abstention. *See Drury v. Cox*, 457 F.2d 764, 764–65
3 (9th Cir. 1972) (stating that only in the most unusual circumstances is a defendant
4 entitled to have federal interposition by way of injunction or habeas corpus until
5 after a judgment has been appealed from, and the case has been concluded in state
6 courts).

7 Second, the state court proceedings implicate important state interests,
8 particularly the State of California’s interest in the order and integrity of its criminal
9 proceedings. *See Kelly v. Robinson*, 479 U.S. 36, 49 (1986) (“[T]he States’ interest
10 in administering their criminal justice systems free from federal interference is one
11 of the most powerful of the considerations that should influence a court considering
12 equitable types of relief.”). Accordingly, the second *Younger* factor weighs in favor
13 of abstention.

14 Third, Petitioner has an adequate opportunity to raise any federal habeas
15 claims in his pending state court appeal. *See Pennzoil Co. v. Texaco, Inc.*, 481 U.S.
16 1, 15 (1987) (finding that a federal court should assume that state procedures will
17 afford adequate opportunity for consideration of constitutional claims “in the
18 absence of unambiguous authority to the contrary”). Therefore, the final *Younger*
19 factor also weighs in favor of abstention.

20 Finally, Petitioner has not alleged facts showing bad faith, harassment,
21 extraordinary circumstances, or irreparable injury. Because all three criteria for
22 *Younger* abstention apply and there is no compelling reason for federal intervention
23 at this time, the Court abstains from interfering with Petitioner’s pending state court
24 proceedings. *See Middlesex Cty.*, 457 U.S. at 435.

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III. CONCLUSION

IT IS ORDERED that the Petition is dismissed without prejudice. All pending motions are denied as moot.

DATED: August 28, 2024



HON. WESLEY L. HSU
UNITED STATES DISTRICT JUDGE