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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

QUINCY MOSLEY,  
Plaintiff,  
v.  
S. STEWART,  
Defendant.

CASE NO. 1:17-cv-00852-DAD JLT (PC)  
ORDER GRANTING THE DEFENDANTS’  
MOTION TO STAY  
(ECF No. 19)

Plaintiff proceeds in this action on an Eighth Amendment excessive force claim against Correctional Officers Stewart, Castillo, and Ventura, whom plaintiff accuses of attacking him without provocation on September 2, 2015, at Kern Valley State Prison. Following that same incident, plaintiff was charged in Kern County Superior Court, People v. Mosley, Case No. DF012442A, with violating California Penal Code § 4501.5, criminal battery on a non-confined person, for attacking defendant Stewart. A trial is presently scheduled in that case for September 17, 2018.<sup>1</sup> Defendants now move to stay this federal suit pending resolution of the state criminal action pursuant to Younger v. Harris, 401 U.S. 37 (1971). Plaintiff has not filed an opposition or a statement of non-opposition.

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<sup>1</sup> See Superior Court of California, County of Kern, Criminal Case Search, [https://www.kern.courts.ca.gov/online\\_services/criminal\\_case\\_search](https://www.kern.courts.ca.gov/online_services/criminal_case_search).

1 Generally, there is a strong policy against federal intervention in pending state judicial  
2 processes in the absence of extraordinary circumstances. Younger v. Harris, 401 U.S. 37, 43-45  
3 (1971); see also Gilbertson v. Albright, 381 F.3d 965, 973 (9th Cir. 2004) (en banc). “Younger  
4 abstention is a jurisprudential doctrine rooted in overlapping principles of equity, comity, and  
5 federalism.” San Jose Silicon Valley Chamber of Commerce Political Action Committee v. City  
6 of San Jose, 546 F.3d 1087, 1091 (9th Cir. 2008). Specifically, Younger directs federal courts to  
7 abstain from granting relief that would interfere with pending state or local criminal proceedings.  
8 Gilbertson, 381 F.3d at 968.

9 Younger and its progeny, however, should not be regarded as blind deference to states’  
10 rights or an abrogation of the federal courts’ “virtually unflagging obligation” to adjudicate  
11 claims within its jurisdiction. Colorado River Water Conservation Deist. v. United States, 424  
12 U.S. 800, 817 (1976); see also Younger, 401 U.S. at 44. Instead, the federal courts are required to  
13 engage in a delicate balancing process to determine when Younger abstention is appropriate.

14 The following three requirements must be satisfied before a federal court may properly  
15 invoke the Younger abstention doctrine: “(1) ongoing state judicial proceedings; (2) implication  
16 of an important state interest in the proceedings; and (3) an adequate opportunity to raise federal  
17 questions in the proceedings.” World Famous Drinking Emporium Inc., v. City of Tempe, 820  
18 F.2d 1079, 1082 (9th Cir. 1987); Gilbertson v. Albright, 381 F.3d 965, 968 (9th Cir. 2004) (en  
19 banc) (Younger principle applies to damages actions).

20 Where applicable, Younger abstention is mandatory. Absent exceptional circumstances,  
21 the district courts do not have discretion to avoid the doctrine if the elements of Younger  
22 abstention exist in a particular case. City of San Jose, 546 F.3d at 1092 (citation omitted). The  
23 recognized exceptional circumstances are limited to “a ‘showing of bad faith, harassment, or  
24 some other extraordinary circumstance that would make abstention inappropriate.’” Id. (quoting  
25 Middlesex County Ethics Committee v. Garden State Bar Association, 457 U.S. 423, 435 (1982)).

26 Defendants argue that all three requirements are met here: (1) People v. Mosley was  
27 initiated before this action was filed and it remains pending in the Kern County Superior Court,  
28 (2) the Kern County District Attorney’s Office has charged plaintiff with criminal battery on

1 defendant Stewart, conduct that it obviously deems “socially harmful” and “punishable,”  
2 Younger, 401 U.S. at 51-52, and (3) plaintiff has an opportunity to litigate his Eighth Amendment  
3 excessive force claim as a defense to defendant Stewart’s use of force.

4 The court agrees as to the first two Younger requirements, namely, that there is an  
5 ongoing state judicial proceeding that implicates an important state interest. As for the third  
6 requirement, plaintiff bears the burden to establish “that state procedural law bar[s] presentation  
7 of [his] claims[ ]” in the state court proceedings. Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 14-15  
8 (1987) (quoting Moore v. Sims, 442 U.S. 415, 432 (1979)). Plaintiff, however, has not responded  
9 to the defendants’ argument that plaintiff has an opportunity to argue at his state criminal trial that  
10 defendant Stewart used excessive force during the incident at issue. See Judice v. Vail, 430 U.S.  
11 327, 338 (1977) (stating that Younger requires that parties to state-court actions “be accorded  
12 only an opportunity to fairly pursue their constitutional claims in the ongoing state proceedings,  
13 and their failure to avail themselves of such opportunities does not mean that the state procedures  
14 were inadequate”).

15 Accordingly, all the elements for the court to invoke the Younger abstention doctrine are  
16 present, there appear to be no exceptional circumstances that would render it inapplicable. In  
17 finding that Younger principles apply to actions seeking damages as well as actions seeking  
18 equitable relief, the Ninth Circuit found that “federal courts should not dismiss actions where  
19 damages are at issue; rather, damages actions should be stayed until the state proceedings are  
20 completed.” Gilbertson, 381 F.3d at 968; accord Los Altos El Granada Investors v. City of  
21 Capitola, 583 F.3d 674, 689-90 (9th Cir. 2009) (“[B]ecause in damages cases there may yet be  
22 something for the federal courts to decide after completion of the state proceedings ... [t]he  
23 district court—quite appropriately—did not dismiss under Younger but stayed the proceedings  
24 pending the final decision of the California courts.”). That damages actions should be stayed  
25 rather than dismissed is consistent with the Supreme Court’s ruling in Wallace v. Kato, 549 U.S.  
26 384 (2007), that where a plaintiff files a civil claim “related to rulings that will likely be made in  
27 a pending or anticipated criminal trial[ ], it is within the power of the district court, and in accord  
28 with common practice, to stay the civil action until the criminal case ... is ended.” Id. at 393-94.

1 As the Supreme Court explained, “If the plaintiff is ultimately convicted, and if the stayed civil  
2 suit would impugn that conviction, Heck [v. Humphrey], 512 U.S. 477 (1994),] will require  
3 dismissal; otherwise, the civil action will proceed, absent some other bar to suit.” Wallace, 549  
4 U.S. at 394.

5 Based on the foregoing, the Court **ORDERS**:

6 1. The defendants’ motion to stay (ECF No. 19) is **GRANTED**;

7 2. The action **STAYED**. Within 15 days of the conclusion of the trial of People v.  
8 Mosley, Kern County Superior Court Case No. DF012442A, the defendants **SHALL** file a status  
9 report detailing the outcome of the case pending resolution, whether they believe the stay should  
10 be lifted and the impact, if any, the outcome of the criminal trial has on this proceeding.

11 IT IS SO ORDERED.

12 Dated: August 15, 2018

13 /s/ Jennifer L. Thurston  
14 UNITED STATES MAGISTRATE JUDGE