



1 Cir.2001).

2 B. Younger Abstention

3 Petitioner is currently incarcerated in the Fresno County Jail. He states the criminal  
4 process is ongoing in Case No. F17902111. He claims he should be released because he is falsely  
5 imprisoned.

6 Under principles of comity and federalism, a federal court should not interfere with  
7 ongoing state criminal proceedings by granting injunctive or declaratory relief except under  
8 special circumstances. Younger v. Harris, 401 U.S. 37, 43-54 (1971). Younger abstention is  
9 required when: (1) state proceedings, judicial in nature, are pending; (2) the state proceedings  
10 involve important state interests; and (3) the state proceedings afford adequate opportunity to  
11 raise the constitutional issue. Middlesex County Ethics Comm. V. Garden State Bar Ass'n, 457  
12 U.S. 423, 432 (1982); Dubinka v. Judges of the Superior Court, 23 F.3d 218, 223 (9th Cir. 1994).  
13 The rationale of Younger applies throughout the appellate proceedings, requiring that state  
14 appellate review of a state court judgment be exhausted before federal court intervention is  
15 permitted. Dubinka, 23 F.3d at 223 (even if criminal trials were completed at time of abstention  
16 decision, state court proceedings still considered pending).

17 The law of habeas corpus also provides guidance on when a district court should abstain  
18 from review of a claim. In order to be granted federal habeas corpus relief, the petition must have  
19 exhausted his available state remedies. 28 U.S.C. § 2254(b). The rule of exhaustion is based on  
20 comity to the state court and gives the state court the initial opportunity to correct the state's  
21 alleged constitutional deprivations. Coleman v. Thompson, 501 U.S. 722, 731 (1991). The  
22 exhaustion requirement can be satisfied by providing the highest state court with a full and fair  
23 opportunity to consider each claim before presenting it to the federal court. Picard v. Connor, 404  
24 U.S. 270, 276 (1971)

25 In the instant case, state criminal proceedings are ongoing. California has an important  
26 interest in passing upon and correcting violations of a defendant's rights. Roberts v. Dicarlo, 296  
27 F.Supp.2d 1182, 1185 (C.D. Cal. 2002) (citing Koerner v. Grigas, 328 F.3d 1039, 1046 (9th Cir.  
28 2003). Finally, the California Court of Appeal and the California Supreme Court are adequate

1 forums for Petitioner to seek relief for his claims. Roberts, 296 F.Supp.2d at 1185. Therefore,  
2 the Court recommends that the petition be dismissed pursuant to Younger.

3 **RECOMMENDATION**

4 Accordingly, the Court RECOMMENDS that the petition be DISMISSED WITHOUT  
5 PREJUDICE as premature.

6 This Findings and Recommendation is submitted to the United States District Court Judge  
7 assigned to this case, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and Rule 304  
8 of the Local Rules of Practice for the United States District Court, Eastern District of California.  
9 Within twenty-one days after being served with a copy, any party may file written objections with  
10 the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and  
11 Recommendation.” The Court will then review the Magistrate Judge’s ruling pursuant to 28  
12 U.S.C. § 636 (b)(1)(C). Failure to file objections within the specified time may waive the right to  
13 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9<sup>th</sup> Cir. 1991).

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15 IT IS SO ORDERED.

16 Dated: December 11, 2017

/s/ Jennifer L. Thurston  
17 UNITED STATES MAGISTRATE JUDGE  
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