

1 “(1) there is an ongoing state judicial proceeding; (2) the proceeding implicates important state
2 interests; (3) there is an adequate opportunity in the state proceedings to raise constitutional
3 challenges; and (4) the requested relief seeks to enjoin or has the practical effect of enjoining the
4 ongoing state judicial proceeding.” *Arevalo v. Hennessy*, 882 F.3d 763, 765 (9th Cir. 2018).
5 When these requirements are met, a district court must dismiss the action and lacks the discretion
6 to do otherwise, absent extraordinary circumstances. *See Cook v. Harding*, 190 F. Supp. 3d 921,
7 935, 938 (C.D. Cal. 2016), *aff’d*, 879 F.3d 1035 (9th Cir. 2018). Extraordinary circumstances
8 include a “showing of bad faith, harassment, or some other extraordinary circumstance that would
9 make abstention inappropriate.” *Arevalo*, 882 F.3d at 766.

10 Conservation of judicial resources, considerations of “wise judicial administration,” and
11 interests in avoiding duplicative litigation provide another basis for abstention. *See Colorado*
12 *River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976). The Supreme Court
13 in *Colorado River* identified four factors that a federal court may consider in deciding whether to
14 abstain: (1) whether the state court first assumed jurisdiction over property; (2) the inconvenience
15 of the federal forum; (3) the desirability of avoiding piecemeal litigation; and (4) the order in
16 which jurisdiction was obtained by the concurrent forums. *Id.* at 818-19. The Supreme Court
17 later added two more factors: (5) whether federal or state law provides the rule of decision on the
18 merits and (6) whether the state court proceedings are inadequate to protect the federal litigant’s
19 rights. *See Moses H. Cone Memorial Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 23 (1983). The
20 Ninth Circuit considers a seventh factor: prevention of forum shopping. *See Travelers Indem. Co.*
21 *v. Madonna*, 914 F.2d 1364, 1367-68 (9th Cir. 1990). No single factor is dispositive. *See*
22 *Colorado River*, 424 U.S. at 818-19.

23 Here, abstention is appropriate under both *Younger* and *Colorado River*. As for *Younger*
24 abstention, petitioner is still challenging his conviction in a state habeas proceeding. ECF No. 1
25 at 5. The state proceeding implicates the important state interest of fair adjudication of criminal
26 charges. The proceeding allows petitioner an adequate opportunity to raise constitutional
27 challenges; we have no reason to conclude otherwise. The requested relief from this court—
28 habeas relief—would have the practical effect of enjoining the state proceeding because the state

1 proceeding would be moot.

2 Abstention under *Colorado River* seems appropriate as well. If petitioner succeeds in his
3 state-court proceeding, his petition in this case would be moot. This court’s decision would be on
4 the merits. The state proceeding is adequate to protect petitioner’s federal rights. Other factors
5 may weigh against abstention, but the critical concern under *Colorado River*—avoiding
6 duplicative proceedings—appears to weigh heavily in favor of abstention.

7 In sum, both *Younger* and *Colorado River* counsel in favor of abstention. The court
8 should abstain from exercising jurisdiction and dismiss this case without prejudice.

9 **I. Order**

10 The clerk of court is directed to assign this case to a U.S. District Court Judge.

11 **II. Findings and Recommendations**

12 I recommend that the court abstain from exercising jurisdiction and dismiss this case
13 without prejudice. Under 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice
14 for the United States District Court, Eastern District of California, these findings and
15 recommendations are submitted to the U.S. District Court Judge presiding over this case. Within
16 fourteen days of the service of the findings and recommendations, any party may file written
17 objections to the findings and recommendations with the court and serve a copy on all parties.
18 That document must be captioned “Objections to Magistrate Judge’s Findings and
19 Recommendations.” The presiding District Judge will then review the findings and
20 recommendations under 28 U.S.C. § 636(b)(1)(C).

21 IT IS SO ORDERED.

22
23 Dated: September 24, 2019

24 
25 UNITED STATES MAGISTRATE JUDGE

26
27 No. 202