

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DeFRANTZE LUCAS NOEL,

Petitioner,

No. CIV S-08-3146 GGH P

vs.

JOHN MCGINNESS,

Respondent.

ORDER

\_\_\_\_\_/

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

It appears that petitioner is attempting to challenge ongoing criminal proceedings against him. Principles of comity and federalism weigh against a federal court interfering with ongoing state criminal proceedings by granting injunctive or declaratory relief absent extraordinary circumstances. Younger v. Harris, 401 U.S. 37, 43-54 (1971). Petitioner has not demonstrated the existence of extraordinary circumstances that warrant interference in the ongoing state criminal proceedings. Accordingly, petitioner is ordered to show cause why this action should not be dismissed pursuant to the Younger abstention doctrine described above.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

In accordance with the above, IT IS HEREBY ORDERED that:

1. Petitioner's application to proceed in forma pauperis is granted;
2. Within thirty days of the date of this order, petitioner shall show cause why this action should not be dismissed pursuant to the Younger abstention doctrine.

DATED: January 12, 2009

/s/ Gregory G.Hollows  

---

GREGORY G. HOLLOWES  
UNITED STATES MAGISTRATE JUDGE

no3146.ord