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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

C.D. ALSTON, No. 2:12-MC-0015-MCE-CKD
Plaintiff,
v. MEMORANDUM AND ORDER
CITY OF SACRAMENTO, et al.,
Defendants.

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Before the Court is Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction. For the reasons that follow, the motion is DENIED and this case is DISMISSED.

BACKGROUND

On March 7, 2012, Plaintiff filed a Petition of Removal of Criminal Prosecution to the District Court [ECF No. 1].

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1 In her Petition, Plaintiff seeks to have her pending criminal
2 prosecution for a violation of California Penal Code § 69 removed
3 from the California Superior Court to this Court on the basis of
4 the Sacramento City Police Department's alleged violations of her
5 rights under the Fourth and Fourteenth Amendments of the U.S.
6 Constitution.¹ In her Motion for a Temporary Restraining Order
7 and Preliminary Injunction, Plaintiff seeks an order from this
8 Court enjoining the State of California from taking her into
9 custody at a hearing for the violation of California Penal Code
10 § 69 that is apparently scheduled for March 9, 2012 [ECF No 2].
11 In essence, Plaintiff contends that the Sacramento Police
12 Department has, without any cause, targeted her for multiple
13 unconstitutional investigations, detentions and arrests.

14 On March 8, 2012, the magistrate judge filed Findings and
15 Recommendations. [ECF. No. 3]. The magistrate judge found that
16 Plaintiff had failed to allege any proper basis for federal
17 subject matter jurisdiction and therefore Plaintiff had no
18 likelihood of success on the merits, so a temporary restraining
19 order was therefore not warranted.

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22 ¹ California Penal Code § 69 provides:

23 Every person who attempts, by means of any threat or
24 violence, to deter or prevent an executive officer from
25 performing any duty imposed upon such officer by law,
26 or who knowingly resists, by the use of force or
27 violence, such officer, in the performance of his duty,
28 is punishable by a fine not exceeding ten thousand
dollars (\$10,000), or by imprisonment pursuant to
subdivision (h) of Section 1170, or in a county jail
not exceeding one year, or by both such fine and
imprisonment.

1 The magistrate judge recommended that this Court (1) deny
2 Plaintiff's Petition and remand to the Superior Court; and
3 (2) deny the motion for a temporary restraining order.
4

5 **ANALYSIS**
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7 In accordance with the provisions of 28 U.S.C.
8 § 636(b) (1) (C) and Local Rule 72-304, this Court has conducted a
9 de novo review of this case. While this Court is in accord with
10 the magistrate judge's findings that there is no basis for
11 federal subject matter jurisdiction and therefore Plaintiff had
12 no likelihood of success on the merits of her motion for a
13 temporary restraining order, the Court does not adopt the
14 magistrate judge's recommendations in full because the Court
15 finds on the basis of Younger v. Harris, 401 U.S. 37 (1971) and
16 its progeny that dismissal of Plaintiff's action is warranted.

17 Specifically, absent extraordinary circumstances, not
18 present here, federal courts should abstain from enjoining
19 ongoing state court proceedings. See Younger v. Harris, 401 U.S.
20 37 (1971). In Younger, the Supreme Court "'espouse[d] a strong
21 federal policy against federal-court interference with pending
22 state judicial proceedings.'" H.C. v. Koppel, 203 F.3d 610, 613
23 (9th Cir. 2000) (quoting Middlesex County Ethics Comm. v. Garden
24 State Bar Ass'n, 457 U.S. 423, 431, (1982)). The "principles of
25 equity, comity, and federalism . . . must restrain a federal
26 court when asked to enjoin a state court proceeding." Mitchum v.
27 Foster, 407 U.S. 225, 243 (1972).

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1 Under Younger, a federal court must abstain if four
2 requirements are met:

3 (1) a state-initiated proceeding is ongoing; (2) the
4 proceeding implicates important state interests; (3)
5 the federal plaintiff is not barred from litigating
6 federal constitutional issues in the state proceeding;
7 and (4) the federal court action would enjoin the
8 proceeding or have the practical effect of doing so,
9 i.e., would interfere with the state proceeding in a
10 way that Younger disapproves.

11 San Jose Silicon Valley Chamber of Commerce Political Action
12 Comm. v. City of San Jose, 546 F.3d 1087, 1091-92 (9th Cir.
13 2008).

14 Here, the first criteria is met because the California
15 action is pending: according to Plaintiff's brief, she has a
16 hearing scheduled for March 9, 2012. The second criteria is met
17 because of the state's important interest in prosecuting
18 individuals charged with violating California Penal Code § 69.
19 Younger held that interference with a state criminal prosecution
20 would disrupt the exercise of a basic state function,
21 "prohibiting the State from carrying out the important and
22 necessary task of enforcing these laws against socially harmful
23 conduct that the State believes in good faith to be punishable
24 under its law and Constitution." Younger, 401 U.S. at 51-52.
25 Thus, a criminal prosecution implicates important state
26 interests.

27 The third criteria is satisfied because Plaintiff has not
28 presented any argument demonstrating why the California court
would not provide her with an adequate opportunity to litigate
her federal claims.

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1 Specifically, although she generally alleges that the Sacramento
2 police have targeted her for illegal and unconstitutional
3 arrests, she does not contend that the prosecutor or courts are
4 complicit in the alleged unconstitutional acts of the Sacramento
5 police force.

6 Younger recognized narrow exceptions to its fundamental rule
7 of abstinence in the limited cases of a showing of bad faith
8 prosecution, harassment, or flagrant and patent violations of
9 express constitutional prohibitions. Younger, 401 U.S. at 53-54.
10 However, the Younger exception is extremely narrow and limited to
11 circumstances where plaintiff is threatened with irreparable
12 injury above and beyond that associated with the defense of a
13 single prosecution brought in good faith." Id. at 48. "Only in
14 cases of proven harassment or prosecutions undertaken by state
15 officials in bad faith without hope of obtaining a valid
16 conviction and perhaps in other extraordinary circumstances where
17 irreparable injury can be shown is federal injunctive relief
18 against pending state prosecutions appropriate." Perez v.
19 Ledesma, 401 U.S. 82, 85 (1971).

20 Plaintiff has not demonstrated that the California courts
21 cannot address her claims. The issues raised in Plaintiff's
22 petition and motion for injunctive relief are properly raised as
23 defenses in the state court prosecution and do not support
24 finding an exception to the general rule prohibiting federal
25 court intervention in ongoing state criminal proceedings. State
26 courts routinely consider federal constitutional issues as part
27 of the criminal appellate process.

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1 Finally, the fourth requirement, that the federal court
2 action would enjoin the state proceeding, is met because the
3 relief Plaintiff seeks is to enjoin California from taking her
4 into custody and to have her pending criminal prosecution on
5 state charges transferred from the state court to federal court.
6 This type of interference has been described as "the most
7 offensive and intrusive action that a federal court can take with
8 respect to a state court proceeding." Gilbertson v. Albright,
9 381 F.3d 965, 977 (9th Cir. 2004) (en banc).

10 Because Younger applies, this Court must abstain from
11 enjoining this case. "When an injunction is sought and Younger
12 applies, it makes sense to abstain, that is, to refrain from
13 exercising jurisdiction, permanently by dismissing the federal
14 action because the federal court is only being asked to stop the
15 state proceeding." Gilbertson, 381 F.3d at 981. Furthermore,
16 "[o]nce it is determined that an injunction is not warranted on
17 Younger grounds, there is nothing more for the federal court to
18 do. Hence, dismissal (and only dismissal) is appropriate." Id.;
19 see also H.C. v. Koppel, 203 F.3d 610, 613 (9th Cir. 2000) ("When
20 the case is one in which the Younger doctrine applies, the case
21 must be dismissed.").

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1 IT IS THEREFORE ORDERED that Plaintiff's ex parte motion for
2 a temporary restraining order and preliminary injunction be, and
3 the same hereby is, DENIED and the case is DISMISSED.

4 The Clerk of the Court is directed to close this case.

5 IT IS SO ORDERED.

6 Dated: March 8, 2012

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9 MORRISON C. ENGLAND, JR.
10 UNITED STATES DISTRICT JUDGE
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