

1 Petitioner challenges his confinement on the grounds that the evidence submitted at the
2 preliminary hearing was insufficient evidence to charge him and the prosecutor knowingly used
3 perjured testimony during the preliminary hearing. ECF No. 1 at 3-12.

4 Pursuant to 28 U.S.C. § 2241, the courts have jurisdiction to consider a habeas petition
5 brought by a pretrial detainee. McNeely v. Blanas, 336 F.3d 822, 824 n.1 (9th Cir. 2003)
6 (citations omitted). Under § 2241(c)(3), a pretrial detainee may seek a writ of habeas corpus
7 when “[h]e is in custody in violation of the Constitution or laws or treaties of the United States.”
8 However, under Younger v. Harris, 401 U.S. 37 (1971), federal courts may not interfere with a
9 pending state criminal case. “Younger abstention is a jurisprudential doctrine rooted in
10 overlapping principles of equity, comity, and federalism.” San Jose Silicon Valley Chamber of
11 Com. Pol. Action Comm. v. City of San Jose, 546 F.3d 1087, 1091-92 (9th Cir. 2008) (citations
12 and footnote omitted).

13 We must abstain under Younger if four requirements are met: (1) a
14 state-initiated proceeding is ongoing; (2) the proceeding implicates
15 important state interests; (3) the federal plaintiff is not barred from
16 litigating federal constitutional issues in the state proceeding; and (4)
the federal court action would enjoin the proceeding or have the
practical effect of doing so, i.e., would interfere with the state
proceeding in a way that Younger disapproves.

17 Id. at 1092 (citations omitted). “Only in cases of proven harassment or prosecutions undertaken
18 by state officials in bad faith without hope of obtaining a valid conviction and perhaps in other
19 extraordinary circumstances where irreparable injury can be shown is federal injunctive relief
20 against pending state prosecutions appropriate.” Perez v. Ledesma, 401 U.S. 82, 85 (1971).

21 In the instant case, the court finds that all four requirements for exercising Younger
22 abstention are met. The state-initiated criminal proceeding against petitioner is still ongoing; the
23 proceeding implicates important state interests; to the extent petitioner may have federal
24 constitutional challenges, he is not barred from raising them in the state criminal proceeding; and
25 this court’s failure to abstain would directly interfere with the state proceeding. Furthermore,
26 petitioner has not alleged any facts demonstrating that his prosecution is the product of bad faith
27 or that other extraordinary circumstances warrant intervention. Accordingly, the court should

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1 abstain from considering petitioner's claims and dismiss them.¹

2 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
3 assign a United States District Judge to this action.

4 IT IS FURTHER RECOMMENDED that:

5 1. Petitioner's application for a writ of habeas corpus be dismissed without prejudice.

6 2. This court decline to issue the certificate of appealability referenced in 28 U.S.C.
7 § 2253.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days
10 after being served with these findings and recommendations, petitioner may file written
11 objections with the court and serve a copy on all parties. Such a document should be captioned
12 "Objections to Magistrate Judge's Findings and Recommendations." If petitioner files objections,
13 he shall also address whether a certificate of appealability should issue and, if so, why and as to
14 which issues. See 28 U.S.C. § 2253(c)(2). Petitioner is advised that failure to file objections
15 within the specified time may waive the right to appeal the District Court's order. Martinez v.
16 Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: January 17, 2023

18 
19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE

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26 ¹ The court notes that this is petitioner's second attempt to challenge the ongoing state
27 prosecution at issue in this case. See James v. People of the State of California, No. 2:21-cv-1005
28 TLN DMC (E.D. Cal.). Petitioner's previous petition sought relief on numerous grounds,
including those articulated in the instant petition, and was dismissed on the ground that abstention
under Younger was required.