

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
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARL ANTHONY GRIMES,

Plaintiff,

v.

SAN MATEO HUMAN SERVICES
AGENCY, et al.,

Defendants.

Case No. [17-cv-02218-EMC](#)

**ORDER RE SERVICE OF SUMMONS
AND COMPLAINT**

Docket No. 7

In this case, the Court previously granted Plaintiff Carl Anthony Grimes’s motion for leave to proceed in forma pauperis, but did not order the issuance of the summons or the service of the complaint on Defendants. Docket No. 6. A federal court must engage in a preliminary screening of any complaint filed by a plaintiff proceeding in forma pauperis to ensure the complaint is not frivolous, states a claim, and does not seek monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

Grimes asserts claims under 42 U.S.C. § 1983 based on allegations that officials from the San Mateo Human Services Agency fabricated evidence against in connection with a case concerning Grimes’s custody of his children. His allegations are as follows: After an alleged incident of domestic violence in January 2015, his children were removed from his home and placed in protective custody by San Francisco social services. Compl. at 8. The children were later returned to their mother’s custody, but Grimes was not permitted to be in contact with them. *Id.* After the children’s godmother reported that the children’s mother remained in contact with Grimes, a representative of San Francisco social services again removed the children from their home on April 19, 2016. *Id.* at 9. The social services worker “began fabricating false evidence”

1 of domestic violence as part of the juvenile custody case. *Id.* at 9.

2 The case was transferred from San Francisco to San Mateo County on August 31, 2016.
3 After the case was transferred, On September 15, 2016, a San Francisco social worker filed a
4 report with the Brisbane Police Department alleging that Grimes had sexually abused his daughter.
5 Grimes contends that this report was fabricated for the purpose of influencing the juvenile custody
6 case in San Mateo County. *Id.* at 12. On November 21, 2016, San Mateo County social worker
7 Michael Sullivan, having spoken to Brisbane police and to the San Francisco social worker about
8 the allegations, filed a Disposition Report in San Mateo County Juvenile Court stating that
9 Grimes’s children could not be returned home due to the risk of sexual abuse. *Id.* at 12. The next
10 San Mateo social worker assigned to the case, Karla Stehl, similarly refused to allow any contact
11 between Grimes and his children because of the sexual abuse allegations. Grimes alleges that both
12 Sullivan and Stehl “knowingly presented false allegations of sexual abuse against the plaintiff in
13 order to keep the plaintiff children under the supervision of the state, and prevent the plaintiff
14 children juvenile case from being dismissed.” *Id.* at 14.

15 Based on these allegations, Grimes asserts claims under 42 U.S.C. § 1983 for violation of
16 his rights under the Fourth, Sixth, and Fourteenth Amendments. His claims under the Fourth and
17 Sixth Amendments appear frivolous. The Fourth Amendment claim appears to be based only on
18 an allegation that that Sullivan and Stehl presented false evidence “in an attempt to cause the arrest
19 of the plaintiff.” Compl. at 14. But Grimes specifically alleges that he was *not* arrested on the
20 basis of any of the sexual abuse allegations. *Id.* at 12. Accordingly, there appears to be no
21 unconstitutional seizure to provide a basis for this claim.

22 As to the Sixth Amendment, Grimes appears to claim that he was deprived of the
23 assistance of counsel in his juvenile custody case, purportedly in violation of California Welfare
24 and Institutions Code § 317.5. That claim is problematic for a number of reasons. First, the
25 California provision in question does not provide for an absolute right to counsel; rather, it
26 provides that those parties who *are* represented by counsel at dependency proceedings “shall be
27 entitled to competent counsel.” Cal. Welf. & Inst. Code § 317.5(a). Second, any state law
28 provision of counsel is irrelevant to whether Grimes’s Sixth Amendment right has been violated.

1 The Sixth Amendment only provides a right to counsel in “criminal prosecutions.” *See, e.g.,*
2 *Hernandez v. Mukasey*, 524 F.3d 1014, 1017 (9th Cir. 2008). Grimes has not alleged that he was
3 deprived of counsel in any criminal proceeding. Accordingly, his Sixth Amendment claim likely
4 fails.¹

5 With respect to Grimes’s Fourteenth Amendment claim as well as all other claims asserted
6 herein, the Court declines to exercise jurisdiction pursuant to the doctrine of *Younger v. Harris*,
7 401 U.S. 37 (1971), as the relief sought would interfere with the ongoing state child custody
8 proceedings.² In determining whether *Younger* abstention is proper, the Court considers three
9 factors: “(1) The nature of the state proceedings in order to determine whether the proceedings
10 implicate important state interests, (2) the timing of the request for federal relief in order to
11 determine whether there are ongoing state proceedings, and (3) the ability of the federal plaintiff to
12 litigate its federal constitutional claims in the state proceedings.” *Kenneally v. Lungren*, 967 F.2d
13 329, 331 (9th Cir. 1992). Each of these factors weighs in favor of abstention here. First, there can
14 be little doubt that the state has an important interest in protecting children from sexual abuse and
15 in supervising those situations. Second, Grimes’s complaint makes clear that the state custody
16 proceedings are ongoing; he states that the allegedly fabricated allegations of sexual abuse “*could*
17 cause [his] parental rights to be terminated” in that proceeding. Compl. at 14. Finally, Grimes
18 offers no reason why he is not able to raise his allegations about the fabrication of evidence (or his
19 other federal constitutional rights) in the state proceedings. Thus, the interests in comity and
20 federalism protected by *Younger* dictate that the Court must abstain from exercising jurisdiction
21 over Grimes’s Fourteenth Amendment claim. *See J.B. ex rel. Hart v. Valdez*, 186 F.3d 1280, 1291
22 (10th Cir. 1999) (holding that *Younger* abstention was required when a state custody proceeding
23 was ongoing and the federal court’s exercise of jurisdiction risked “fundamentally changing the
24

25 ¹ Plaintiff has not raised a due process claim. *Cf. Lassiter v. Dep’t of Social Servs. of Durham Cty,*
26 *N.C.*, 452 U.S. 18 (1981).

27 ² Both the Supreme Court and the Ninth Circuit have held that *Younger* abstention applies in the
28 context of ongoing state administrative proceedings. *Ohio Civil Rights Comm’n v. Dayton*
Christian Sch., Inc., 477 U.S. 619, 627 (1986); *Baffert v. California Horse Racing Bd.*, 332 F.3d
613, 617 (9th Cir. 2003).

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
27
28


dispositions and oversight of the children”); *31 Foster Children v. Bush*, 329 F.3d 1255, 1278 (11th Cir. 2003).

In sum, upon review of Plaintiff’s allegations, each of Grimes’s claims is **DISMISSED** with prejudice. The Clerk is instructed to enter judgment and close the file.

This order disposes of Docket No. 7.

IT IS SO ORDERED.

Dated: July 26, 2017



EDWARD M. CHEN
United States District Judge