

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

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

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SHIRLEY V. REMMERT,	)	
	)	
Petitioner,	)	No. C 17-3856 CRB (PR)
	)	
vs.	)	ORDER OF DISMISSAL
	)	
CARLOS BOLANOS, Sherriff,	)	(ECF Nos. 3 & 13)
	)	
Respondent.	)	
	)	

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Petitioner Shirley V. Remmet, a detainee at the San Mateo County Jail awaiting sentencing after a state superior court jury found her guilty of theft/ embezzlement of an elder or dependent person by a caretaker and related offenses, has filed a pro se petition for a writ of habeas corpus challenging the state criminal proceedings against her. She also seeks leave to proceed in forma pauperis (IFP) and appointment of counsel.

Petitioner may challenge her pre-sentence detention on state criminal charges by way of a petition for a writ of habeas corpus under 28 U.S.C. § 2241. But principles of comity and federalism require that this court abstain and not entertain any such pre-sentence habeas challenge unless petitioner shows that: (1) she has exhausted available state judicial remedies, and (2) “special circumstances” warrant federal intervention. Carden v. Montana, 626 F.2d 82, 83-84 (9th Cir. 1980). Only in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid

1 conviction and perhaps in other special circumstances where irreparable injury  
2 can be shown is federal injunctive relief against ongoing state prosecutions  
3 appropriate. Id. at 84 (citing Perez v. Ledesma, 401 U.S. 82, 85 (1971)).  
4 Petitioner makes no such showing of “special circumstances” warranting federal  
5 intervention. See id. The petition for a writ of habeas corpus accordingly is  
6 DISMISSED without prejudice to refile after state criminal proceedings,  
7 including sentencing and appeal, are completed.

8 Based solely on her affidavit of poverty, petitioner’s request to proceed  
9 IFP (ECF No. 13) is granted. But her request for appointment of counsel (ECF  
10 No. 3) is denied as moot.

11 SO ORDERED.

12 DATED: August 16, 2017

  
13 CHARLES R. BREYER  
14 United States District Judge