

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

3  
4 JEROME L. GRIMES,

No. C 13-0480 CW (PR)

5                                    Petitioner,

ORDER OF DISMISSAL  
WITHOUT PREJUDICE AND  
DENYING LEAVE TO  
PROCEED IN FORMA  
PAUPERIS

6                                    v.

7 SUPERIOR COURT,

8                                    Respondent.

9 \_\_\_\_\_/

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11                                    Petitioner Jerome L. Grimes has been found incompetent to  
12 stand trial and currently is incarcerated at Napa State Hospital.

13                                    This is the third pro se habeas corpus action Petitioner has  
14 filed in this court concerning his ongoing state criminal  
15 proceedings. In his first petition, he claimed that the judge  
16 presiding over his criminal proceedings had not allowed him to  
17 represent himself in propria persona after finding him incompetent  
18 to stand trial, in violation of his rights under Faretta v.  
19 California, 422 U.S. 806 (1975). He asked this Court to intervene  
20 in his ongoing state proceedings. The Court dismissed the  
21 petition without prejudice on abstention grounds. See Grimes v.  
22 Wong, No. C 12-5698 CW (PR).

23                                    In his second petition, he indicated that he had pursued his  
24 Faretta claim all the way to the California Supreme Court and  
25 renewed his request that this Court review the merit of that  
26 claim. The Court again declined to do so on abstention grounds.  
27 See Grimes v. Wong, No C 12-5989 CW (PR).

28                                    In the present petition, Petitioner informs the Court that

1 after he was found incompetent to stand trial on October 15, 2012,  
2 he was transferred to Napa State Hospital on November 12, 2012,  
3 for a period of thirty to sixty days to participate in the "Court  
4 Trial Competency Program." Pet. at 2. He again attempts to  
5 challenge the denial of his Faretta motion and the ruling that he  
6 is incompetent to stand trial. He states that he has exhausted  
7 his state remedies with respect to these claims, and has attached  
8 to his petition a copy of an order filed by the California Supreme  
9 Court on January 18, 2013, that transfers Petitioner's state  
10 habeas petition to the California Court of Appeal to consider in  
11 the first instance. Pet. Attach. 1. He also has attached an  
12 order filed by the California Court of Appeal on January 24, 2013,  
13 that dismisses the transferred petition as "substantially  
14 identical" to prior petitions denied by that court. Pet. Attach.  
15 2.

16 The present petition is subject to dismissal for the same  
17 reasons explained in the Court's prior orders. Although  
18 Petitioner has been found incompetent to stand trial at this time,  
19 his state criminal proceedings are ongoing. Under principles of  
20 comity and federalism, a federal court should not interfere with  
21 ongoing state criminal proceedings by granting injunctive or  
22 declaratory relief absent extraordinary circumstances. See  
23 Younger v. Harris, 401 U.S. 37, 43-54 (1971). Federal courts  
24 should not enjoin pending state criminal prosecutions absent a  
25 showing of the state's bad faith or harassment. See id. at 53-54  
26 (holding that the cost, anxiety and inconvenience of a criminal  
27 defense are not the kind of special circumstances or irreparable  
28 harm that would justify federal court intervention). Abstention  
may be inappropriate in the extraordinary circumstance that the

1 party seeking relief in federal court does not have an adequate  
2 remedy at law and will suffer irreparable injury if denied  
3 equitable relief. See Mockaitis v. Harclerod, 104 F.3d 1522,  
4 1528 (9th Cir. 1997) (citing Younger, 401 U.S. at 43-44).

5 In the present case, Petitioner clearly disagrees with the  
6 state court's decision to deny his Faretta motion and find him  
7 incompetent to stand trial. At this stage of Petitioner's  
8 criminal proceedings, however, the state court system provides him  
9 with adequate means to raise his legal challenges.

10 The Court will not intervene in Petitioner's ongoing state  
11 proceedings until they have concluded and he has exhausted his  
12 state judicial remedies.<sup>1</sup> Accordingly, this action is DISMISSED  
13 without prejudice.

14 Leave to proceed in forma pauperis is DENIED.

15 The Clerk of the Court shall enter judgment and close the  
16 file.

17 IT IS SO ORDERED.

18 Dated: 2/28/2013

  
19 CLAUDIA WILKEN  
20 United States District Judge

21 \_\_\_\_\_  
22 <sup>1</sup> Petitioner maintains he exhausted state remedies because  
23 his petition was rejected by the California Supreme Court. The  
24 exhaustion requirement is not met, however, when a claim is raised  
25 by a procedural method which makes it unlikely that the claim will  
26 be considered on the merits. See Castille v. Peoples, 489 U.S.  
27 346, 351 (1989). As noted, the California Supreme Court  
28 transferred the petition to the California Court of Appeal to  
review in the first instance; this suggests that the petition was  
presented to the California Supreme Court by an improper  
procedural method. Moreover, even if the claims are exhausted,  
the present petition remains subject to dismissal on abstention  
grounds.