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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CLIFFORD C. LARSEN,

Plaintiff,

vs.

BONNIE DUMANIS, District
Attorney of San Diego County;
SHONTEL, District Attorney of El
Cajon East County; SHERRY
HARRIS, paralegal to Shontel; CITY
OF LA MESA; LA MESA POLICE
DEPARTMENT; RUSSEL
LOCKWOOD; and JOHN DOE,

Defendants.

CASE NO. 07 CV 0028 JM (BLM)

**ORDER (1) GRANTING
MOTION TO PROCEED IN
FORMA PAUPERIS, (2)
DISMISSING COMPLAINT ON
YOUNGER ABSTENTION
GROUND, AND (3) DENYING
MOTION FOR INJUNCTION**

On January 3, 2007, plaintiff Clifford C. Larsen (“Plaintiff”), a non-prisoner proceeding pro se and currently residing in Rochester, New York, filed this complaint pursuant to 42 U.S.C. § 1983 against defendants. Plaintiff also moves to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Upon review of Plaintiff’s declaration listing his income, assets, and debt, the court concludes Plaintiff is unable to pay the filing fee. Plaintiff has been unemployed since February 2005, has no assets or income from any source, and owes student loans in the amount of \$15,000. Accordingly, the court **GRANTS** the motion to proceed in forma pauperis.

Pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), however, the court may sua sponte

1 dismiss the action if the complaint fails to state a claim upon which relief may be
2 granted.

3 The underlying facts summarized herein are taken from the complaint. In
4 February 2006, Plaintiff was arrested at his San Diego county apartment by local police
5 in connection with reports of a household disturbance. Plaintiff was thereafter
6 criminally charged and given a trial date of June 12, 2006. Plaintiff did not appear for
7 his trial and instead traveled to upstate New York where his family lives. In October
8 2006, Plaintiff was arrested in New York by United States Marshals on a fugitive
9 warrant. Plaintiff is currently out of custody on bail and is in New York awaiting
10 extradition to California.

11 Plaintiff's requested relief are damages and injunction preventing district attorney
12 Bonnie Dumanis, district attorney Shontel, and the La Mesa, California police
13 department "from seeking governors warrant by 1/22/07." Comp. at 7. It is clear from
14 the complaint that Plaintiff is seeking to enjoin his extradition and his pending
15 prosecution in California. Federal courts, however, will not enjoin pending state
16 criminal prosecutions except under extraordinary circumstances, such as when there is
17 an immediate threat to a plaintiff's federally protected rights that cannot be eliminated
18 by his defense against a single prosecution. Younger v. Harris, 401 U.S. 37 (1971). The
19 present complaint does not evidence any such extraordinary circumstances warranting
20 deviation from the Younger rule.

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1 Accordingly, the court **DISMISSES** the complaint for failure to state a claim
2 upon which relief may be granted. Plaintiff has also submitted to the court a separate
3 “Motion to request injunction by 1/22/07 and prayer for relief under 42 U.S.C. 1983”,
4 which has not yet been filed with the clerk. The clerk is **ORDERED** to file this
5 separate motion. The court **DENIES** the separate motion for injunctive relief for the
6 same reasons the complaint is being dismissed.

7 **IT IS SO ORDERED.**

8 DATED: January 22, 2007

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11 Hon. Jeffrey T. Miller
12 United States District Judge

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cc: All Parties