

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  
SOUTHERN DISTRICT OF CALIFORNIA**

RAYMOND E. MIXSON,  
Petitioner,  
v.  
STAT OF CALIFORNIA,  
Respondent.

Civil No. 15-0878 LAB (DHB)

**ORDER DISMISSING CASE  
WITHOUT PREJUDICE**

Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.

**ABSTENTION**

The Petition must be dismissed because it is clear that this Court is barred from consideration of his claims by the abstention doctrine announced in *Younger v. Harris*, 401 U.S. 37 (1971). Under *Younger*, federal courts may not interfere with ongoing state criminal proceedings absent extraordinary circumstances. *Id.* at 45-46; *see Middlesex County Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 431 (1982) (*Younger* “espouse[d] a strong federal policy against federal-court interference with pending state judicial proceedings.”) These concerns are particularly important in the habeas context where a state prisoner’s conviction may be reversed on appeal, thereby rendering the federal issue moot. *Sherwood v. Tompkins*, 716 F.2d 632, 634 (9th Cir. 1983).

///

1 Absent extraordinary circumstances, abstention under *Younger* is required when:  
2 (1) state judicial proceedings are ongoing; (2) the state proceedings involve important  
3 state interests; and (3) the state proceedings afford an adequate opportunity to raise the  
4 federal issue. *Columbia Basin Apartment Ass'n v. City of Pasco*, 268 F.3d 791, 799 (9th  
5 Cir. 2001). All three of these criteria are satisfied here. At the time Petitioner filed the  
6 instant Petition, he admits that his case is currently pending in state court. (*See* Pet. at 2,  
7 4-5.) Further, there is no question that the state criminal proceedings involve important  
8 state interests.

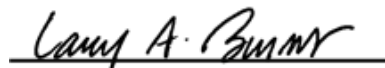
9 Finally, Petitioner has failed to show that he has not been afforded an adequate  
10 opportunity to raise the federal issues on direct appeal. Petitioner offers nothing to  
11 support a contention that the state courts do not provide him an adequate opportunity to  
12 raise his claims, and this Court specifically rejects such an argument. *See Huffman v.*  
13 *Pursue, Ltd.*, 420 U.S. 592, 608 (1975) (*Younger* applies to state appellate proceedings  
14 as well as ongoing proceedings in state trial court); *see also Drury v. Cox*, 457 F.2d 764,  
15 764-65 (9th Cir. 1972) (“[O]nly in the most unusual circumstances is a defendant entitled  
16 to have federal interposition by way of injunction or habeas corpus until after the jury  
17 comes in, judgment has been appealed from that the case concluded in the state courts.”)

### 18 CONCLUSION

19 Because Petitioner has failed to demonstrate that extraordinary circumstances exist  
20 which would relieve this Court of its obligation to abstain from interfering with ongoing  
21 state criminal proceedings, his Petition is **DISMISSED** without prejudice. *Juidice v.*  
22 *Vail*, 430 U.S. 327, 337 (1977) (holding that if *Younger* abstention applies, a court may  
23 not retain jurisdiction but should dismiss the action.)

24 IT IS SO ORDERED.

25  
26 DATED: April 30, 2015

27 

28 HONORABLE LARRY ALAN BURNS  
United States District Judge