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

DEBORAH COONEY,

Petitioner,

v.

CYNTHIA COX,

Respondent.

Civil 16cv2345-LAB (JLB)
No.

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Petitioner Deborah Cooney, a person detained at the Las Colinas Detention and Reentry Facility in Santee, California, has filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. (ECF No. 1.) Petitioner indicates that she is currently incarcerated “purportedly for an extradition proceeding” to Florida, and requests this Court to order her immediate release on bail or her own recognizance. (Pet. at 1.)

The Petition is subject to dismissal because Petitioner has failed to satisfy the filing fee requirement, and on abstention grounds.

FAILURE TO SATISFY FILING FEE REQUIREMENT

Petitioner has failed to pay the \$5.00 filing fee and has failed to move to proceed in forma pauperis. Because this Court cannot proceed until Petitioner has either paid the \$5.00 filing fee or qualified to proceed in forma pauperis, the Court **DISMISSES** the case without prejudice. See Rule 3(a), 28 U.S.C. foll. § 2254.

1 **ABSTENTION**

2 In addition, because Petitioner is challenging ongoing state proceedings, this Court
3 is barred from consideration of her claim by the abstention doctrine announced in
4 Younger v. Harris, 401 U.S. 37 (1971). Under Younger, federal courts may not interfere
5 with ongoing state proceedings absent extraordinary circumstances. Id. at 45-46; see
6 Middlesex County Ethics Comm. v. Garden State Bar Ass’n, 457 U.S. 423, 431 (1982)
7 (stating that Younger “espouse[d] a strong federal policy against federal-court
8 interference with pending state judicial proceedings.”); see Sherwood v. Tompkins, 716
9 F.2d 632, 634 (9th Cir. 1983) (holding that the concerns of Younger abstention are
10 particularly important in the federal habeas context where a state prisoner’s conviction
11 may be reversed by the state court, thereby rendering the federal issue moot.)

12 Absent extraordinary circumstances, abstention under Younger is required when:
13 (1) state judicial proceedings are ongoing; (2) the state proceedings involve important
14 state interests; and (3) the state proceedings afford an adequate opportunity to raise the
15 federal issues. Columbia Basin Apartment Ass’n v. City of Pasco, 268 F.3d 791, 799
16 (9th Cir. 2001). These criteria are satisfied here. Petitioner indicates that her state case
17 is still ongoing, and she has not shown she is unable to petition the state courts for the
18 relief she seeks. Because Petitioner has not shown extraordinary circumstances, to the
19 extent she is seeking intervention in her ongoing state proceedings, abstention is
20 required. See Drury v. Cox, 457 F.2d 764, 764-65 (9th Cir. 1972) (“[O]nly in the most
21 unusual circumstances is a defendant entitled to have federal interposition by way of
22 injunction or habeas corpus until after the jury comes in, judgment has been appealed
23 from and the case concluded in the state courts.”)

24 **CONCLUSION AND ORDER**


25 Rule 4 of the Rules Governing Section 2254 Cases provides for summary
26 dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and any
27 exhibits annexed to it that the petitioner is not entitled to relief in the district court.”
28 Rule 4, 28 U.S.C. foll. § 2254. Here, it is plain from the Petition that Petitioner is not

1 presently entitled to federal habeas relief because she has not satisfied the filing fee
2 requirement, and on abstention grounds.

3 Based on the foregoing, the Court **DISMISSES** the case due to Petitioner's failure
4 to satisfy the filing fee requirement, and on abstention grounds. The dismissal is without
5 prejudice.

6 **IT IS SO ORDERED.**

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8 DATED: September 27, 2016

9 
10 HONORABLE LARRY ALAN BURNS
11 United States District Judge

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