



1 release on his own recognizance. The Petition must be dismissed, however, because this  
2 Court is barred from consideration of his claims by the abstention doctrine announced in  
3 *Younger v. Harris*, 401 U.S. 37 (1971). Under *Younger*, federal courts may not interfere  
4 with ongoing state criminal proceedings absent extraordinary circumstances. *Id.* at 45–46;  
5 *see Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 431 (1982)  
6 (*Younger* “espouse[d] a strong federal policy against federal-court interference with  
7 pending state judicial proceedings.”). These concerns are particularly important in the  
8 habeas context where a state prisoner’s conviction may be reversed on appeal, thereby  
9 rendering the federal issue moot. *Sherwood v. Tompkins*, 716 F.2d 632, 634 (9th Cir.  
10 1983).

11 Absent extraordinary circumstances, abstention under *Younger* is required when: (1)  
12 state judicial proceedings are ongoing; (2) the state proceedings involve important state  
13 interests; and (3) the state proceedings afford an adequate opportunity to raise the federal  
14 issue. *Columbia Basin Apartment Ass’n v. City of Pasco*, 268 F.3d 791, 799 (9th Cir.  
15 2001). All three of these criteria are satisfied here. At the time Petitioner filed the instant  
16 Petition, he admits that his case is still pending before the San Diego Superior Court. (*See*  
17 *Pet.* 5–6.) As such, Petitioner’s criminal case is still ongoing in the state courts. Further,  
18 there is no question that the state criminal proceedings involve important state interests.  
19 Finally, Petitioner offers nothing to support a contention that the state courts do not provide  
20 him an adequate opportunity to raise his claims, and this Court specifically rejects such an  
21 argument.

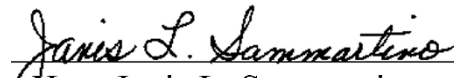
22 Petitioner has failed to demonstrate that extraordinary circumstances exist which  
23 would relieve this Court of its obligation to abstain from interfering with ongoing state  
24 criminal proceedings. *See Lazarus v. Baca*, 389 Fed. App’x. 700, 701 (9th Cir. 2010)  
25 (affirming dismissal of pretrial detainee’s habeas petition challenging her detention as a  
26 violation of the Excessive Bail Clause of the Eighth Amendment and due process, upon a  
27 finding that *Younger* abstention applied); *see also, .e.g., Robinson v. Sniff*, No. EDCV 09-  
28 33-DDP (RC), 2009 WL 1037716, at \*1 (C.D. Cal. Apr. 17, 2009) (dismissing on *Younger*

1 grounds pretrial detainee’s petition for writ of habeas corpus alleging excessive bail);  
2 *Sojourner v. Reed*, No. 9-CV-597-TWT-ECS, 2009 WL 762517, at \*1 (N.D. Ga. Mar. 20,  
3 2009) (invoking abstention doctrine where state habeas petitioner making an excessive bail  
4 claim); *Merrick v. Ornell*, Nos. C 96-4659 MMC, C 96-4660 MMC, 1997 WL 12128, at  
5 \*1 (N.D. Cal., Jan. 8, 1997) (invoking abstention doctrine where state habeas petitioner  
6 claiming that he was being held on excessive bail).

7 Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** the Petition, (ECF  
8 No. 1).<sup>1</sup> *See Juidice v. Vail*, 430 U.S. 327, 337 (1977) (holding that if *Younger* abstention  
9 applies, a court may not retain jurisdiction but should dismiss the action). Because the  
10 Court dismisses the Petition, the Court also **DENIES AS MOOT** Petitioner’s Motion to  
11 Appoint Counsel, (ECF No. 3).

12 **IT IS SO ORDERED.**

13 Dated: January 4, 2018

14   
15 Hon. Janis L. Sammartino  
16 United States District Judge  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

26 <sup>1</sup> The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has submitted to this  
27 Court challenging the terms of his bail. On June 8, 2017, Petitioner filed in a Court a Petition for Writ of  
28 Habeas Corpus in case No. 17-CV-1164. In that petition, Petitioner also challenged his pre-trial detention  
and the terms of his bail. On August 27, 2017, Judge Benchivengo denied the petition pursuant to the  
*Younger* abstention doctrine. (*See* Order filed Aug. 27, 2017 in case No. 17-CV-1164 CAB (NLS).)