

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

BRUCE WRIGHT,

Plaintiff,

vs.

CASE NO. 8:13-CIV-2784-T-EAK-AEP

CITY OF ST. PETERSBURG,

Defendant.

ORDER DENYING MOTION

This cause is before the Court on the Defendant's motion to dismiss or abstain (Doc. 6) and response thereto (Doc. 10). The Defendant seeks abstention under the *Younger v Harris*, 401 U.S. 37 (1971) doctrine. The Younger doctrine has been updated by *Sprint Communc'ns, Inc. v Jacobs*, No. 12-815, 571 U.S. ___, 2013 WL 6410850 (Dec. 10, 2013), wherein the Supreme Court clarified that the three factors of Younger, (1) do the proceedings constitute an ongoing state judicial proceeding; (2) do the proceedings implicate important state interests; and (3) is there an adequate opportunity in the state proceedings to raise constitutional challenges, are not "dispositive" but are factors that are to be considered in addition to the other factors set out in Sprint before invoking Younger abstention. The new factors are: "that *Younger* extends to the three 'exceptional circumstances' identified in *NOPSI, [New Orleans Public Service, Inc. v. Council of City of New Orleans]*, 491 U. S. 350,


368 (1989)] but no further.” *Id.* at *9. These ‘exceptional circumstances’ exist in only three types of judicial proceedings outlined in *NOPSI* which ‘define *Younger*’s scope’ to preclude federal intervention in the following: (1) ongoing state criminal proceedings; (2) certain civil enforcement proceedings; and (3) pending ‘civil proceedings involving certain orders...uniquely in furtherance of the state courts’ ability to perform their judicial functions.’”

Id., at 6.

Having reviewed the motion and response in light of the Sprint case and the previous *Younger* doctrine, the Court concurs with the Plaintiff that there should not be any abstention in this matter. Accordingly, it is

ORDERED that the motion to dismiss or abstain (Doc. 6) be **denied**. The Defendant shall answer the complaint on or before March 7, 2014.

DONE and ORDERED in Chambers, in Tampa, Florida, this 25th day of February, 2014.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to: All parties and counsel of record