

# **APPENDIX A**

The Six Circuit Decision on  
Abdelbaset Youssef v. Bill Schuette et al  
19-01225 on 9/17/2019

**NOT RECOMMENDED FOR FULL-TEXT PUBLICATION**

No. 19-1225

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Sep 17, 2019  
DEBORAH S. HUNT, Clerk

ABDELBASET A. YOUSSEF,

Plaintiff-Appellant,

v.

BILL SCHUETTE, et al.,

Defendants-Appellees.

)  
)  
)  
)  
) ON APPEAL FROM THE UNITED  
) STATES DISTRICT COURT FOR  
) THE EASTERN DISTRICT OF  
) MICHIGAN  
)  
)  
)

**ORDER**

Before: NORRIS, SILER, and SUTTON, Circuit Judges.

Abdelbaset Youssef, a Michigan resident proceeding pro se, appeals the district court's judgment dismissing his civil-rights complaint filed under 42 U.S.C. § 1983. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. 34(a).

The Michigan Board of Medicine suspended Youssef's medical license on October 30, 2015, after a hearing, for over-prescribing controlled substances. The Board denied reinstatement of his license first on December 21, 2016, then on January 16, 2019. Youssef challenges that denial of reinstatement in this suit, the latest in his state- and federal-court efforts to return to practicing medicine.

In November 2018, Youssef filed a complaint against Michigan Attorney General Bill Schuette, the Michigan Board of Medicine ("Board"), Board Chairman Mohammed Arswiala, and Board Member Rosalie Tocco-Bradley. Youssef alleged that the defendants suspended his medical license for six months without providing due process. Specifically, he alleged that, during

an April 23, 2015, hearing, Assistant Michigan Attorney General Andrew Hudson gave him only five minutes to read hundreds of pages of documents and to admit or deny the information contained therein. He also alleged that several witnesses presented false testimony.

In addition to challenging the initial suspension of his medical license, Youssef alleged that the Board denied his request for reinstatement in retaliation for pursuing his appeal rights. He contended that, during a reinstatement hearing, Hudson conspired with Assistant Michigan Attorney General Jessica Taub to fabricate documents and present witnesses who testified falsely. Youssef further alleged that the Board failed to timely rule on a second request for reinstatement in retaliation for exercising his appeal rights, filing civil cases challenging his suspension, and publishing a book. According to Youssef, Hudson and Taub again conspired during his second reinstatement hearing to fabricate documents and present false testimony, which resulted in an extension of the original suspension order for a minimum of two years.

Youssef seeks a temporary restraining order and an injunction requiring the defendants to reinstate his medical license and barring the defendants from retaliating against him and violating his civil rights, a declaratory judgment, and damages. Youssef also filed a separate motion for a preliminary injunction, as well as motions for expedited consideration of his preliminary-injunction motion, for expedited discovery, for automatic substitution of the Michigan Attorney General, to correct a defect in his preliminary-injunction motion, and to supplement the brief that he filed in response to the defendants' motion to dismiss. The district court denied the motion to expedite consideration of Youssef's preliminary-injunction motion.

The defendants moved to dismiss Youssef's complaint. The district court granted the motion and dismissed Youssef's claims under Federal Rule of Civil Procedure 12(b)(6), concluding that some claims were barred by the *Rooker-Feldman* doctrine and others by the *Younger* abstention doctrine. See *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Younger v. Harris*, 401 U.S. 37 (1971); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923). Alternatively, the district court found that the defendants were entitled to absolute and sovereign immunity. The district court denied as moot all pending motions.

On appeal, Youssef argues that the district court erred in finding that his claims were barred by the *Rooker-Feldman* doctrine and the *Younger* abstention doctrine. He also challenges the district court's finding that the defendants were immune from suit. Finally, Youssef argues that, because the district court erred in dismissing his complaint, it also erred in denying as moot his pending motions. Youssef moved to expedite his appeal.

We review de novo a district court's decision to abstain under *Younger*. *Doe v. Univ. of Ky.*, 860 F.3d 365, 368 (6th Cir. 2017). We may affirm on any ground supported by the record. *See Thomas v. City of Columbus*, 854 F.3d 361, 364 (6th Cir. 2017).

The district court properly abstained under *Younger* from hearing Youssef's challenge to his ongoing state administrative proceedings. "*Younger* . . . and its progeny espouse a strong federal policy against federal-court interference with pending state judicial proceedings absent extraordinary circumstances." *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 431 (1982). As a threshold matter, *Younger* abstention applies only to certain kinds of state proceedings. Its core purpose is "prevent[ing] federal courts from interfering with . . . state criminal prosecutions." *Doe*, 860 F.3d at 368. But it also applies in narrow circumstances outside criminal prosecutions: civil enforcement proceedings "akin to criminal prosecutions," *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, 72 (2013), and civil proceedings involving "certain orders that are uniquely in furtherance of the state courts' ability to perform their judicial functions." *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans*, 491 U.S. 350, 368 (1989).

The ongoing state administrative proceedings here are neither a criminal prosecution nor uniquely in furtherance of state courts' judicial functions, but we have held that similar administrative proceedings are "akin to criminal prosecutions." *Doe*, 860 F.3d at 370 (state university disciplinary proceedings); *Watts v. Burkhart*, 854 F.2d 839, 846 (6th Cir. 1988) (Tennessee medical license suspension proceedings); *Middlesex Cty.*, 457 U.S. at 433–34 (attorney disciplinary proceedings). Lacking a distinction between those cases and this one, we conclude that Michigan Board of Medicine proceedings are "akin to criminal proceedings."

With the threshold question resolved, *Younger* abstention applies if three factors are present. First, there must have been an ongoing state judicial proceeding when the complaint was filed. *Doe*, 860 F.3d at 369 (citing *Middlesex Cty.*, 457 U.S. at 432–34). Second, the proceedings must involve an important state interest. *Id.* And third, the state proceedings must provide an adequate opportunity for the federal plaintiff to raise his constitutional claims. *Id.* The federal plaintiff bears the burden of showing that a clear state-law bar prevents him from raising his constitutional claims in his state proceedings. *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 14 (1987).

First, proceedings were ongoing. Youssef filed his most recent medical license reinstatement request with the Board on January 29, 2018. The Board held a hearing on that request, and an administrative law judge recommended reinstatement on July 10, 2018. The Board denied this second application for reinstatement on January 16, 2019. Before that decision, Youssef filed this suit on November 11, 2018—in other words, while his state license reinstatement proceedings were ongoing.

Second, the proceedings involve an important state interest. States traditionally regulate licensing of medical professionals, and for good reason. Just as states have an important interest in (and traditional control over) attorney licensing and professional conduct, they have an important interest in ensuring the medical practitioners caring for their citizens meet appropriate requirements. *See Middlesex Cty.*, 457 U.S. at 434–35; *Watts*, 854 F.2d at 847 (explaining the important state interest in “regulating the prescription and distribution of controlled substances by licensed physicians”).

Third, Youssef has given us no reason to think he lacks ample opportunity to raise any constitutional claims in his state proceedings. As the district court concluded, he had the opportunity for a hearing before the Board, has hired (and fired) a lawyer to represent him in those proceedings, has already completed one trip through the Michigan court system’s judicial review of the medical board, and will now be able to pursue the same state-court review a second time. Most importantly, he has presented nothing resembling a state-law bar to consideration of constitutional claims in Board proceedings.

No. 19-1225

- 5 -

True, as Youssef points out, *Younger* does not apply in a few exceptional circumstances—when the state acts in bad faith, to harass, or to enforce a patently invalid statute. *Doe*, 860 F.3d at 371. Youssef alleges that his situation implicates those exceptional circumstances, but he provides no support for those allegations. Such “bare assertions of legal conclusions,” *see, e.g., Z. Techs. Corp. v. Lubrizol Corp.*, 753 F.3d 594, 597 (6th Cir. 2014), neither require nor permit us to find a *Younger* exception here.

Because *Younger* abstention suffices to dismiss the complaint entirely, we do not address the district court’s alternative grounds.

For the foregoing reasons, we **DENY** as moot Youssef’s motion to expedite his appeal. We **AFFIRM** the district court’s judgment dismissing Youssef’s claims.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk

## **APPENDIX B**

District Court Eastern District of Michigan's order

Youssef v. Schuette et al, 2:18 – cv – 13549, on 3/5/2019

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ABDELBASET A. YOUSSEF,

Plaintiff,

v.

BILL SCHUETTE, et al.,

Defendants.

---

Case No. 18-13549

District Judge Victoria A. Roberts

Magistrate Judge David R. Grand

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS (Doc. 10)**  
**AND MOOTING PLAINTIFF'S MOTIONS [Doc. 2, 13, 14, 19, 20 and 22]**

**I. INTRODUCTION and BACKGROUND**

On September 18, 2014, the Michigan Board of Medicine ("Board"), through its Disciplinary Subcommittee, filed a complaint against Abdelbaset A. Youssef ("Youssef") for illegally prescribing 25,475 controlled substances between August 1, 2012 and July 31, 2013. The Board presented Youssef with a settlement offer. He rejected it and attended a disciplinary hearing instead. At the hearing, the Administrative Law Judge ("ALJ") issued a proposal—adopted by the Board—that Youssef's license be suspended. Youssef applied for reinstatement; the Board denied the request.

Youssef exhausted appeals in the state court system; he originally filed suit in this Court on February 27, 2017. The Court dismissed Youssef's complaint, finding that his claims were barred by the *Rooker-Feldman* doctrine, *Younger* abstention, absolute immunity, and Eleventh Amendment immunity.

Youssef filed a second application for reinstatement on December 23, 2017. Another hearing was held; on July 10, 2018, the ALJ issued a proposal recommending



reinstatement of Youssef's license. Notwithstanding the ALJ's recommendation, the Board denied Youssef's application for reinstatement on January 16, 2019.

Youssef filed this complaint on November 14, 2018. Youssef asks the Court for declaratory and prospective injunctive relief; he says absolute and Eleventh Amendment immunity are inapplicable where a plaintiff seeks prospective injunctive relief. Youssef also contends that the *Rooker-Feldman* doctrine and *Younger* abstention are now inapplicable.

Defendants move to dismiss under Fed. R. Civ. P. 12(b)(6); they essentially say that Youssef's complaint is a veiled attempt to relitigate his previously dismissed claims, and they argue that Youssef's claims are still barred for the same reasons set forth by the Court in its earlier order.

Because Youssef really asks this Court to provide redress for perceived past harms, namely, the suspension of his medical license, and state proceedings are still pending, the same bases the Court relied on to dismiss Youssef's prior claims apply.

Defendants' motion is **GRANTED**.

## **II. STANDARD OF REVIEW**

A motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) tests a complaint's legal sufficiency. Although the federal rules only require that a complaint contain a "short and plain statement of the claim showing that the pleader is entitled to relief," see Rule 8(a)(2), the statement of the claim must be plausible. Indeed, "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556

U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible where the facts allow the Court to infer that the defendant is liable for the misconduct alleged. *Id.* This requires more than “bare assertions of legal conclusions;” a plaintiff must provide the “grounds” of his or her “entitlement to relief.” *League of United Latin Am. Citizens v. Bredesen*, 500 F.3d 523, 527 (6th Cir. 2007). In deciding a motion under Rule 12(b)(6), the Court must construe the complaint in the light most favorable to the plaintiff and accept as true all well-pled factual allegations. *Id.* The Court “may consider the Complaint and any exhibits attached thereto, public records, items appearing in the record of the case and exhibits attached to defendant’s motion to dismiss so long as they are referred to in the Complaint and are central to the claims contained therein.” *Bassett v. Nat’l Collegiate Athletic Ass’n*, 528 F.3d 426, 430 (6th Cir. 2008).

### **III. ANALYSIS**

#### **A. The *Rooker-Feldman* Doctrine Still Bars Youssef’s Claims**

In its earlier order of dismissal, the Court deemed Youssef’s claims barred by the *Rooker-Feldman* doctrine. Youssef says the doctrine is inapplicable to his latest claims because he does not ask the Court for redress or to reverse an earlier decision. However, a careful examination of Youssef’s complaint and briefing demonstrates that Youssef’s argument focuses on alleged past violations committed by Defendants in suspending his medical license. Moreover, to the extent Youssef seeks prospective relief, his claims are barred by *Younger* abstention.

The *Rooker-Feldman* doctrine bars a claim when “a plaintiff complains of injury from the state court judgment itself.” *Coles v. Granville*, 448 F.3d 853, 858 (6th Cir. 2006).

Here, as in his earlier complaint, Youssef asserts that the Board acted illegally in the proceedings and hearings leading to the suspension of his medical license; as such, he essentially asks this Court to overrule the Board's decision. The Court previously stated that this is the very type of appellate review that the *Rooker-Feldman* doctrine bars.

The *Rooker-Feldman* doctrine mandates the dismissal of Youssef's claims.

#### **B. Youssef's Claims are Also Barred by *Younger* Abstention**

The Court's prior order of dismissal was also based on *Younger* abstention. Youssef asserts that three exceptions to *Younger* abstention apply to his latest claims, such that *Younger* is no longer an appropriate basis for dismissal. Youssef's claims in this regard amount to no more than "bare assertions of legal conclusions"; as such, they remain barred by *Younger* abstention.

There are three requirements that must be met for *Younger* abstention to apply: "(1) there must be ongoing state judicial proceedings; (2) those proceedings must implicate important state interests; and (3) there must be an adequate opportunity in the state proceedings to raise constitutional challenges." *Squire v. Coughlan*, 469 F.3d 551, 555 (6th Cir. 2006) (quoting *Sun Ref. & Mktg. Co. v. Brennan*, 921 F.2d 635, 639 (6th Cir. 1990)). Additionally, federal courts should abstain unless there is an extraordinary circumstance that would make abstention inappropriate. *Squire*, 469 F.2d at 555.

As with Youssef's earlier claims, the three factors are satisfied here. First, there are "ongoing state judicial proceedings"; while the Board did deny Youssef's second application for reinstatement, the United States Supreme Court extended *Younger* abstention to ongoing state administrative proceedings and Youssef has not exhausted

his state appellate remedies. See *Ohio Civil Rights Comm'n v. Dayton Christian Sch., Inc.*, 477 U.S. 619, 627 (1986) (We have also applied [*Younger* abstention] to state administrative proceedings in which important state interests are vindicated, so long as in the course of those proceedings the federal plaintiff would have a full and fair opportunity to litigate his constitutional claim.); see also *Gibson v. Berryhill*, 411 U.S. 564, 576-77 (1973) (“administrative proceedings looking toward the revocation of a license to practice medicine may in proper circumstances command the respect due court proceedings.”); see also *Dubinka v. Judges of Superior Court of State of Cal. for Cty. of Los Angeles*, 23 F.3d 218, 223 (9th Cir. 1994) (“[t]he [United States] Supreme Court has held that *Younger* abstention applies to prevent federal intervention in a state judicial proceeding in which a losing litigant has not exhausted his state appellate remedies.”) (citing *Huffman v. Pursue, Ltd.*, 420 U.S. 592, 607-11 (1975)).

Second, the state clearly has an important interest in ensuring that doctors appropriately prescribe controlled substances. The Court has stated that it considers Youssef’s inappropriate conduct contrary to the public’s best interest.

Finally, Youssef had ample opportunity in state proceedings to raise constitutional challenges. With respect to his original claims, he opted for a hearing, hired a lawyer to represent him, “retired” that lawyer, pled his case in front of the state district and appeals court, and filed an appeal in the Michigan Supreme Court. Moreover, now that the Board has denied his latest application, Youssef has an additional opportunity to appeal through state courts.

The *Younger* abstention requirements are satisfied. Youssef’s claim that the exceptional circumstances of bad faith, harassment or a patently invalid state statute

apply here is unavailing; he fails to plead their applicability with sufficient factual particularity. Indeed, Youssef's allegations are merely "bare assertions of legal conclusions." *Bredesen*, 500 F.3d at 527. Conclusory allegations cannot survive a motion to dismiss.

Youssef's claims are barred by *Younger* abstention.

### **C. Absolute Immunity Still Bars Youssef's Claims**

Earlier, the Court deemed Youssef's claims barred by the doctrine of absolute immunity. Youssef argues that absolute immunity no longer bars his claims because he is seeking prospective injunctive relief, not barred by judicial immunity. Youssef's argument misses the point; because the entirety of his complaint makes it abundantly clear that he is seeking redress for perceived past wrongs, absolute immunity still bars his claims.

Absolute immunity "is necessary to assure that judges, advocates, and witnesses can perform their respective functions without harassment or intimidation." *Butz v. Economou*, 438 U.S. 478, 512 (1978). The Court extends absolute immunity beyond judicial officials to prosecutors and parties participating in the judicial process so that they enjoy the same protections. *Id.*

Bill Schuette is entitled to absolute immunity; he was a part of the judicial process in state court as Attorney General of the State of Michigan during the events that gave rise to this litigation.

Moreover, the holding in *Butz* extends to medical boards; thus, the remaining Defendants are entitled to absolute immunity as well. *Quatkemeyer v. Kentucky Bd. Of Med. Licensure*, 506 F.App'x 342, 343 (6th Cir. 2012).

#### **D. Defendants are Entitled to Eleventh Amendment Immunity**

Finally, Youssef argues that Defendants are no longer entitled to Eleventh Amendment immunity because he now seeks prospective relief. As mentioned, Youssef's complaint makes it clear that he does not seek prospective relief; he seeks redress for various perceived past wrongs, primarily the suspension of his medical license. Eleventh Amendment immunity still bars Youssef's claims.

The Eleventh Amendment affords states immunity from suits "commenced or prosecuted . . . by citizens of another state." U.S. Const., Amend. XI. Moreover, "[t]he States' immunity from suits in federal court applies to claims against a State by citizens of the same State as well as to claims against a State by citizens of another State." *Ernst v. Rising*, 427 F.3d 351, 358 (6th Cir. 2005). The United States Supreme Court has extended immunity to state officials sued in their official capacity. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 59 (1989). "A suit against state officials in their official capacities is not a suit against the officials but rather is a suit against the officials' offices and, thus, is no different from a suit against the state itself." *Id.*

All of Youssef's claims are brought against Defendants in their official and individual capacities; they are entitled to Eleventh Amendment immunity.

#### **IV. CONCLUSION**

The Court **GRANTS** Defendants' Motion to Dismiss. Youssef's claims are **DISMISSED** in their entirety.

Youssef has the following motions pending:

1. Motion for Preliminary Injunction [Doc. #2];
2. Motion for Expedited Discovery [Doc. #13];
3. Motion for Automatic Substitution [Doc. #14];
4. Motion to Correct Defect in Brief [Doc. #19];
5. Motion to Supplement Brief [Doc. #20]; and
6. Reply to Defendants' Response to Motion to Supplement Response [Doc. #22].

By virtue of this Order, the motions are **MOOT**.

**IT IS ORDERED.**

S/ Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: March 5, 2019

## **APPENDIX C**

District Court Eastern District of Michigan's Order

Youssef v. Schuette et al, 2:17-cv-10610, on 8/10/2017



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ABDELBASET ABDELMAGID  
YOUSSEFF,

Plaintiff,

v.

Case No.: 17-10610  
Honorable Victoria A. Roberts

BILL SCHUETTE, ET AL.,

Defendants.

---

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS [DOC. #26]**

**I. INTRODUCTION and BACKGROUND**

On September 18, 2014, the Michigan Board of Medicine ("Board"), through its Disciplinary Committee, filed a complaint against Abdelmagid Youssef ("Youssef") for prescribing 25,475 controlled substances between August 1, 2012 and July 31, 2013. Youssef was presented with a settlement offer. He rejected it and attended a disciplinary hearing instead. At the hearing, the Administrative Law Judge ("ALJ") issued a Proposal – adopted by the Board – that Youssef's license be suspended. Youssef applied for reinstatement; the Board denied the request.

Youssef exhausted appeals in the state court system and has an appeal pending in the Michigan Supreme Court. Youssef filed suit in the Eastern District of Michigan against Bill Schuette, Dennis Szymanski, Robert Regan, Andrew Hudson, Jessica Taub, Peter Graham, Kim Gaedeke (collectively "Defendants"). He asks the Court for redress not afforded to him through state court litigation.

Defendants move to dismiss under Fed. R. Civ. P. 12(b)(6). Among other arguments, Defendants say Youssef's claims are barred by the *Rooker-Feldman*

doctrine, *Younger* abstention, absolute immunity and Eleventh Amendment immunity. The Court addresses each of these, but finds the *Rooker-Feldman* doctrine is dispositive on all claims.

The Court **GRANTS** Defendants' motion.

## **II. LEGAL STANDARD**

A complaint need not contain detailed factual allegations to survive a 12 (b)(6) motion. *Bell Atlantic Corp. v Twombly*, 550 U.S. 544, 555 (2007) (citing *Sanjuan v. American Bd. of Psychiatry and Neurology, Inc.*, 40 F.3d 247, 251 (C.A. 1994)). Fed. R. Civ. P. 8(a) requires a complaint to set forth "a short and plain statement of the claim showing that the pleader is entitled to relief," as well as a "demand for the relief sought." Fed. R. Civ. P. 8(a)(2), (3). The purpose of this rule is to give defendant fair notice of what is set forth in the plaintiff's claim and "the grounds upon which it rests." *Twombly*, 550 U.S. at 555 (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). "Notice" pleading does not require detailed factual allegations, but does require more than a bare assertion of legal conclusions. *Id.* A complaint "does not suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.' " *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 557).

## **III. ANALYSIS**

### **A. Role of Defendants**

It is helpful to outline the role these Defendants played in the underlying state proceedings:

1. Andrew Hudson ("Hudson"), Assistant Attorney General, served as Attorney for the Board and filed a complaint against Youssef. Youssef says Hudson abused

his authority as attorney for the Board because he did not respond to a motion Youssef filed;

2. Jessica Taub ("Taub"), Assistant Attorney General, served as Attorney for the Board. Youssef alleges Taub conspired with Hudson and the Administrative Law Judge ("ALJ");
3. Robert Regan ("Regan") works for the Michigan Department of Licensing and Regulatory Affairs. He conducted an investigation of Youssef's practice. Youssef accuses Regan of perjury and infringement. He does not say what Regan infringed;
4. Dennis Szymanski ("Szymanski") is a member of the Board. Youssef says Szymanski presented a final order for a vote without reviewing Youssef's exceptions to the ALJ's Proposal;
5. Bill Schuette ("Schuette") is Attorney General for the State of Michigan. He had no personal involvement in Youssef's state case. Youssef alleges that Schuette failed to comply with Youssef's request to remove Hudson from his licensing hearing. Youssef says Schuette's failure to remove Hudson was gross negligence and obstruction of justice;
6. Peter Graham ("Graham") is the Chairperson of the Michigan Board of Medicine;
7. Kim Gaedeke ("Gaedeke") was a Director for the Bureau of Professional Licensing;
8. Dr. John Hopper ("Hopper") is referred to as an expert witness by Youssef. Youssef says he committed perjury at the hearing;
9. Adam Sadowski ("Sadowski") is an Assistant Attorney General; and

10. Mark Donnelly ("Donnelly") is an Assistant Attorney General.

**B. The *Rooker-Feldman* Doctrine Bars Youssef's Claims**

The *Rooker-Feldman* doctrine bars a claim when, "a plaintiff complains of injury from the state court judgment itself." *Coles v. Granville*, 448 F.3d 853, 858 (6th Cir. 2006). When the source of the injury claimed is a state court decision, the *Rooker-Feldman* doctrine prevents the district court from asserting jurisdiction and the court must dismiss the claim. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998).

Youssef complains that the state court orders are unsound; he asks the Court to overrule them. This is the very type of appellate review which the *Rooker-Feldman* doctrine bars. All of his claims are precluded.

**C. Any Claims that May Arise on Appeal are Barred by *Younger* Abstention**

Defendants argue any claims that may arise on appeal are barred by *Younger* abstention.

There are three requirements that must be met for *Younger* abstention to apply: "(1) there must be ongoing state judicial proceedings; (2) those proceedings must implicate important state interests; and (3) there must be an adequate opportunity in the state proceedings to raise constitutional challenges." *Squire v. Coughlan*, 469 F.3d 551, 555 (6th Cir. 2006) (quoting *Sun Ref. & Mktg. Co. v. Brennan*, 921 F.2d 635, 639 (6th Cir. 1990). *Squire* noted that federal courts should abstain unless there is an extraordinary circumstance that would make abstention inappropriate. *Squire*, 469 F.2d at 555.

Here, the three factors are satisfied. First, there is an “ongoing state judicial proceedings;” Youssef appealed the suspension of his license to the Michigan Supreme Court; that appeal is pending and he sues on the same injury here.

Second, the state has an important interest to ensure that doctors appropriately prescribe controlled substances. The Court considers Youssef’s inappropriate conduct as contrary to the public’s best interest. The second element is satisfied.

Finally, Youssef had ample opportunity in state proceedings to raise constitutional challenges. He opted for a hearing, employed a lawyer to represent him, “retired” that lawyer, pled his case in front of the district and appeals court, and filed an appeal in the Michigan Supreme Court.

The *Younger* abstention requirements are met. To the extent there may be any disagreement that the *Rooker-Feldman* doctrine is dispositive on all issues, Youssef’s claims are barred by *Younger* abstention.

#### **D. Absolute Immunity Bars Youssef’s claims against Defendants**

Absolute immunity “is necessary to assure that judges, advocates, and witnesses can perform their respective functions without harassment or intimidation.” *Butz v. Economou*, 438 U.S. 478, 512 (1978). The court extends absolute immunity beyond judicial officials’ to prosecutors and parties participating in the judicial process so that they enjoy the same protections. *Id.*

The roles of Taub, Hudson, Regan, Schuette and Hopper are described above. They were all part of the judicial process in state court and are entitled to absolute immunity.

The holding in *Butz* extends to members of medical boards and affords

Szymanski absolute immunity as well. In *Quatkemeyer*, a doctor was investigated for excessively prescribing controlled substances; his license was revoked. *Quatkemeyer v. Kentucky Bd. of Med. Licensure*, 506 F. App'x 342, 343 (6th Cir. 2012). The doctor brought suit against the Kentucky Board of Medical Licensure, challenging its determination that he should be denied access to controlled substances. The Kentucky Board moved to dismiss, and the district court granted the motion. On appeal, the Sixth Circuit affirmed and found that the board was entitled to absolute immunity.

The same result is required here. Because Syzmanski is a member of the Board, he is afforded absolute immunity.

#### **E. All Defendants are Entitled to Eleventh Amendment Immunity**

Defendants argue they are entitled to Eleventh Amendment Immunity. The Court agrees.

The Eleventh Amendment affords states immunity from suits commenced or prosecuted ... by citizens of another state." U.S. Const., Amend. XI. The Supreme Court extends immunity to those sued in their official capacity. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 59 (1989). "A suit against state officials in their official capacities is not a suit against the officials but rather is a suit against the officials' offices and, thus, is no different from a suit against the state itself." *Id.*

Because claims are brought against all of the Defendants in their official capacities, all are entitled to Eleventh Amendment Immunity.

#### **F. Youssef's Claims Against Graham and Gaedeke Fail**

Youssef lists Graham and Gaedeke, in their official capacity, in the caption of the complaint. He also lists Sadowski and Donnelly in the caption. He fails to make any allegations against these four individuals.

The Court dismissed them. *See Frazier v. Michigan*, 41 F. App'x 762, 764 (6th Cir. 2002) (dismissing claims where complaint did not allege which of the named defendants was personally involved in or responsible for each alleged violation of rights).

#### **IV. CONCLUSION**

Youssef's claims are dismissed in their entirety. The Court need not address qualified or *respondent superior* liability, also raised by Youssef.

The Court **GRANTS** Defendants' Motion to Dismiss.

Youssef has the following motions pending:

1. Motion for Preliminary Injunction [Doc. #25];
2. Motion to Amend Motion for Preliminary Injunction [Doc. #33];
3. Motion for Order to Start Discovery [Doc. #36]; and
4. Motion for Leave to File Supplemental Brief [Doc. #37].

By virtue of this Order dismissing his case, the motions are deemed **MOOT**.

**IT IS ORDERED.**

S/Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: August 10, 2017

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on August 10, 2017.

s/Linda Vertriest  
Deputy Clerk



**Additional material  
from this filing is  
available in the  
Clerk's Office.**