

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAN 15 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DANIEL EVERETT,

No. 20-16502

Plaintiff-Appellant,

D.C. No. 3:20-cv-03504-EMC
Northern District of California,
San Francisco

v.

JUSTICES OF THE CALIFORNIA
SUPREME COURT; et al.,

ORDER

Defendants-Appellees.

Before: WARDLAW, CHRISTEN, and MILLER, Circuit Judges.

Appellant's emergency motion for injunctive relief (Docket Entry No. 12) is denied.

Upon a review of the record and the responses to the court's August 19, 2020 order, we conclude this appeal is frivolous. We therefore deny appellant's request to proceed in forma pauperis (Docket Entry No. 10), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

All other pending motions are denied as moot.

DISMISSED.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL EVERETT,

Plaintiff,

v.

JUSTICES OF THE CALIFORNIA
SUPREME COURT, et al.,

Defendants.

Case No. 20-cv-03504-EMC

ORDER DISMISSING CASE

On May 15, 2020, Daniel Everett filed this lawsuit against the Justices of the California Supreme Court, California State Bar Court Judge Yvette Roland, and the State Bar of California. *See* Docket No. 1. On June 6, 2020, Mr. Everett filed a Motion for Temporary Restraining Order and Preliminary Injunction. *See* Docket No. 13. A hearing on that motion was held on June 25, 2020. *See* Docket No. 34. However, Mr. Everett was unable to join the hearing due to technical issues he was experiencing with Zoom.

At the hearing, the Court denied Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction. As explained on the record and memorialized in the Minute Order, the Court found that abstention pursuant to *Younger* is appropriate in this case because (1) state proceedings are ongoing, (2) those proceedings implicate important state interests, and (3) those proceedings afford Plaintiff an adequate opportunity to raise constitutional claims. *See* Docket No. 34 (citing *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 758 (9th Cir. 2014); *Hirsh v. Justices of the Supreme Court of the State of Cal.*, 67 F.3d 708, 712 (9th Cir. 1995)). Moreover, the Court noted that, to the extent *Younger* applies with particular force to quasi-criminal proceedings, courts have held that state bar disciplinary matters such as this are

1 proceedings that are quasi-criminal in nature. *Id.* (citing *Slaten v. State Bar*, 46 Cal.3d 48, 57
2 (Cal. 1988) *as modified* (Oct. 13, 1988); *In re Ruffalo*, 390 U.S. 544, 551 (1968)). It concluded
3 that Plaintiff had failed to demonstrate a likelihood of success on the merits or even raise a serious
4 question on the merits, and it denied Mr. Everett's motion. In light of the applicability of the
5 *Younger* abstention doctrine, the Court also ordered Mr. Everett to show cause why the case
6 should not be dismissed.

7 Mr. Everett has now filed a response.¹ In challenging the application of the *Younger*
8 doctrine, Mr. Everett primarily emphasizes the constitutional nature of the challenges he asserts in
9 this lawsuit and realleges the facts that underpin those arguments. However, he does not offer any
10 arguments that lead this Court to believe it should not abstain pursuant to the *Younger* doctrine.
11 To the contrary, state proceedings remain on going, those proceedings continue to implicate
12 important state interests, and they will afford Plaintiff an adequate opportunity to raise the
13 constitutional claims he attempts to assert here. In addition, Mr. Everett has not offered any
14 evidence, nor advanced any persuasive argument to suggest that an exception to abstention—such
15 as bad faith or harassment—might apply. *See Baffert v. California Horse Racing Bd.*, 332 F.3d
16 613, 617 (9th Cir. 2003) (quoting *Kenneally v. Lungren*, 967 F.2d 329, 331 (9th Cir.1992)) ("[A]n
17 exception to abstention applies if the state proceedings demonstrate 'bad faith, harassment, or
18 some other extraordinary circumstances that would make abstention inappropriate.'").

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27 ¹ The day before the hearing on Mr. Everett's TRO motion, Defendants Judge Roland and the
28 State Bar of California filed a Motion to Dismiss. *See* Docket No. 33. Mr. Everett has styled his
response to the OSC as both a response to Defendants' Motion to Dismiss and a response to the
Court's OSC. *See* Docket No. 35.

1 Thus, because the requirements of *Younger* abstention are met and no exception applies,
2 Court **DISMISSES** Mr. Everett's case. *See, e.g., Cook v. Harding*, 190 F. Supp. 3d 921, 935
3 (C.D. Cal. 2016), *aff'd*, 879 F.3d 1035 (9th Cir. 2018) (citing *Beltran v. State of Cal.*, 871 F.2d
4 777, 782 (9th Cir.1988)) ("*Younger* abstention requires dismissal of the federal action."); *E.T. v.*
5 *George*, 681 F. Supp. 2d 1151, 1168 (E.D. Cal. 2010) (citing *Beltran.*, 871 F.2d at 782) ("*Younger*
6 abstention requires dismissal of the federal action."). In light of that dismissal, Defendants'
7 Motion to Dismiss is **DENIED** as moot. The pending administrative motions to seal, at Docket
8 Nos. 3 and 6, are also **DENIED** as moot; the filed materials will remain under seal.

9 This order disposes of Docket Nos. 3, 6, and 33.

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IT IS SO ORDERED.

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Dated: July 7, 2020

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EDWARD M. CHEN
United States District Judge

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