

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Jose Alfredo Suarez v. Smith, et al.

Suarez · No. 3:25-cv-01640-CAB-KSC · Decided October 31, 2025

OPINION

1 2 3 4 5 6 7 8 9 10 UNITED STATES DISTRICT COURT 11 SOUTHERN DISTRICT OF
CALIFORNIA 12 13 JOSE ALFREDO SUAREZ, Case No.: 3:25-cv-01640-CAB-KSC 14
Petitioner, ORDER STAYING CASE 15 v. 16 SMITH, et al., [Doc. No. 2] 17 Respondents. 18 19
On June 26, 2025, Jose Alfredo Suarez (“Petitioner”) filed a Petition for Writ of 20 Habeas Corpus
under 28 U.S.C. § 2254.

[Doc. No. 1 (“Petition”).] Petitioner was 21 convicted of second-degree murder (Cal. Penal Code
§ 187(a)), assault with a deadly 22 weapon (Cal. Penal Code § 245), and first-degree attempted
murder (Cal. Penal Code §§ 23 664, 187, 189). [Id. at 2.] Petitioner seeks to stay the habeas
petition until his state court 24 proceedings conclude pursuant to *Younger v. Harris*, 401 U.S. 37
(1971).

[Doc. No. 2.] 25 In 2023, Petitioner filed a petition in state court for resentencing under California
26 Penal Code § 1172.6. [Doc. No. 1-5 at 17.] His petition was denied, and his appeal is 27
currently pending in the California Court of Appeals. [Id.] While his resentencing petition 28 was
pending, Petitioner filed two petitions for writ of habeas corpus in the California 1 Supreme
Court.

The first, which raised issues related to California’s Racial Justice Act as 2 codified in California
Penal Code § 1473, was denied for failing to establish a prima facie 3 showing of entitlement to
relief. [Doc. No. 1-27 at 4.]

The claims set forth in that decided 4 petition appear to be the basis of the instant Petition. The
second petition, which is still 5 pending, alleges judicial conflicts of interests and false evidence
presented at trial. [Doc. 6 No. 1-5 at 18; see Doc. No. 1-27 at 11–13.] Those claims do not appear
to be directly 7 related to the issues raised here. 8 As a general proposition, a federal court will not
intervene in a pending state criminal 9 proceeding absent extraordinary circumstances where the
danger of irreparable harm is 10 both great and immediate.

See *Younger*, 401 U.S. at 45. *Younger* abstention is required 11 when: (1) there is an ongoing state
judicial proceeding; (2) the proceedings implicate 12 important state interests; (3) there is an
adequate opportunity in the state proceedings to 13 raise constitutional challenges; and (4) the

requested relief seeks to enjoin or has the 14 practical effect of enjoining ongoing state judicial proceeding.

Arevalo v. Hennessy, 882 15 F.3d 763, 765 (9th Cir. 2018). 16 Although Plaintiff requests a stay pursuant to *Younger v. Harris*, with respect to the 17 pending resentencing appeal, it does not appear that *Younger* abstention applies.

The Ninth 18 Circuit has held that existence of state court proceedings relating to a resentencing petition 19 does not implicate *Younger*. *Duke v. Gastelo*, 64 F.4th 1088, 1099 (9th Cir. 2023). In 20 *Duke*, the Court found that the third prong of the *Younger* test was lacking because the 21 resentencing proceedings were narrow in scope. [Id.]

The *Duke* Court also found that the 22 district court had the discretion to stay that matter. 64 F.4th 1088, 1099–1100 (9th Cir. 23 2023). Similarly, although *Younger* abstention does not apply here, this Court has the 24 discretion to grant a stay. 25 Considering that Respondents do not oppose a stay, [Doc. No. 15 at 4.], the Court 26 STAYS this case.

The parties shall notify the Court within three court days of receipt of a 27 /// 28 /// | decision on Petitioner’s resentencing appeal. 2 It is SO ORDERED. (GB 3 Dated: October 31, 2025 4 Hon. Cathy Ann Bencivengo United States District Judge 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28