

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 20 2023

FOR THE NINTH CIRCUIT

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

MICHAEL L. MCLAUGHLIN,

No. 20-35187

Plaintiff-Appellant,

D.C. No.

v.

3:19-cv-00154-TMB-MMS

CENTRAL PENINSULA GENERAL
HOSPITAL, a non-profit corporation;
TRENA RICHARDSON, President; JAMES
MCHALE, Vice President; MARK
DIXSON; SAL MATTERO; STEVE
MANLEY; RUSSELL PETERSON; MARK
PREMO; STEVEN HORN; STEVEN
HORN; GREGG MONTONAGA; DEBRA
SHUEY; JOHN BRAMANTE, CPGH
Directors; MICHAEL T. BLAKE, D.O.;
JASON HELTON; RACHEL GILLILAND;
DEBRA A. BLIZZARD; KATELIN E.
HIMES; MATTHEW M. MEADE;
DIANNE J. CRONIN, CPGH staff;
MICHAEL LEVY; LEVI DOSS; JESSICA
SMITH; HENRY KANE; CY COX; T.J.
COX, Nikiski Fire Dept; MARK PEARSON,
Sgt.; SAMUEL J. WEBBER; JOSEPH
MINNICK; CASEY HERSHBERGER,
Alaska State Troopers; IRVING CARLISLE,
Secretary/Treasurer,

MEMORANDUM*

Defendants-Appellees.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Appeal from the United States District Court
for the District of Alaska
Timothy M. Burgess, District Judge, Presiding

Submitted July 19, 2023^{**}

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Michael L. McLaughlin appeals from the district court's dismissal of this case for failure to state a claim on which relief can be granted. Because the facts are known to the parties, we repeat them only as necessary to explain our decision.

I

McLaughlin contends that the district court erred in abstaining from exercising jurisdiction over his civil rights claims under the *Younger* abstention doctrine, which instructs that federal courts should refrain from enjoining state criminal proceedings except in very rare circumstances. *See Younger v. Harris*, 401 U.S. 37, 41 (1971). A four-element test governs our application of *Younger*: a federal court should abstain if (1) “a state-initiated procedure is ongoing,” (2) the procedure “implicates important state interests,” (3) “the litigant is not barred from litigating federal constitutional issues in that proceeding,” and (4) “the court’s action would enjoin, or have the practical effect of enjoining, ongoing state court proceedings.”

^{**} The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

AmerisourceBergen Corp. v. Roden, 495 F.3d 1143, 1149 (9th Cir. 2007) (quoting *Gilbertson v. Albright*, 381 F.3d 965, 978 (9th Cir. 2004)).

Under this standard, the case falls squarely within the proper application of *Younger*. McLaughlin’s criminal proceedings remain ongoing. Enforcing Alaska state law is undoubtedly an important state interest. Mr. McLaughlin is free to raise his constitutional claims in state court and has done so. Finally, McLaughlin’s claims are intertwined with his criminal case—ruling on appellant’s claims that his constitutional rights were violated in the course of his arrest would have the “practical effect of enjoining[] ongoing state court proceedings.” *AmerisourceBergen Corp.*, 495 F.3d at 1149. In sum, to exercise jurisdiction in this case would be to interfere with the State of Alaska’s judicial process. The district court correctly held that these constitutional claims should be decided in the pending state litigation.

II

McLaughlin additionally challenges the district court’s dismissal of his *qui tam* action under the False Claims Act (FCA). But this court’s precedents unambiguously establish that *pro se* litigators cannot become relators of FCA *qui tam* actions. *Stoner v. Santa Clara Cnty. Off. of Educ.*, 502 F.3d 1116, 1126 (9th Cir. 2007) (“While [28 U.S.C. § 1654] allows Stoner to prosecute his own actions *in propria persona*, that right is personal to him... Stoner has no authority to prosecute

an action in federal court on behalf of others than himself.”). The district court thus did not err in dismissing McLaughlin’s *qui tam* action.

III

The judgment of the district court is

AFFIRMED.