

**NOT RECOMMENDED FOR PUBLICATION**

No. 23-6015

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Aug 27, 2024  
KELLY L. STEPHENS, Clerk

JOHN F. CURRAN III,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	ON APPEAL FROM THE UNITED
	)	STATES DISTRICT COURT FOR
	)	THE WESTERN DISTRICT OF
CARL A. FRONABARGER, et al.,	)	TENNESSEE
	)	
Defendants-Appellees.	)	
	)	

ORDER

Before: GILMAN, WHITE, and THAPAR, Circuit Judges.

John F. Curran III, a pro se Tennessee resident, appeals the district court’s interlocutory order denying the enjoinder of his pending criminal prosecution in Hardin County, Tennessee. Curran moves this court to stay his state criminal proceedings, for leave to correct the reply that he filed in support of his stay motion, and for a hearing to challenge his extradition to Hardin County. He also requests oral argument. 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. P. 34(a). For the reasons set forth below, we grant Curran leave to file his corrected reply, deny his remaining motions, and affirm the district court’s order.

Curran considered purchasing a marina located on the Tennessee River, but discovered during the due-diligence period that the seller, Carl Fronabarger, had abandoned it. As a result, the marina had broken free from its moorings and drifted several miles downriver. Curran allegedly salvaged the marina’s fuel tanks to avoid spillage of fuel into the river, and he thereafter

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sought compensation from Fronabarger for maritime salvage services.<sup>1</sup> When Fronabarger refused to pay, Curran filed a lien against the marina's anchorage and moorings and refused to honor a check that he had issued to a crew member who helped him with the salvage operation. Based on this conduct, the State of Tennessee indicted Curran for filing a false lien and passing a worthless check.

In April 2023, while that state criminal case was pending, Curran filed this federal lawsuit against the State of Tennessee and others,<sup>2</sup> claiming in part that his state prosecution is illegal. Specifically, Curran claimed that Tennessee lacks subject-matter jurisdiction to prosecute him for actions taken in connection with securing compensation for alleged salvage services. He argues that, because the salvage services occurred in public navigable waters, such conduct falls squarely within the federal courts' exclusive admiralty jurisdiction. Curran sought money damages and a preliminary injunction to halt his state criminal proceedings.

On a magistrate judge's recommendation, and over Curran's objections, the district court denied Curran's request for a preliminary injunction, concluding that he had not satisfied any of the four factors required for preliminary injunctive relief and that abstention was warranted under *Younger v. Harris*, 401 U.S. 37 (1971).

Curran now appeals, challenging the district court's denial of a preliminary injunction. We have jurisdiction under 28 U.S.C. § 1292(a)(1), which allows parties to appeal interlocutory orders denying injunctive relief. We review the denial of a request for a preliminary injunction under the abuse-of-discretion standard. *Enchant Christmas Light Maze & Mkt. Ltd. v. Glowco, LLC*, 958 F.3d 532, 536 (6th Cir. 2020). But we review the district court's legal determinations de novo, *id.*,

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<sup>1</sup> See *The Sabine*, 101 U.S. 384, 384 (1879) ("Salvage is the compensation allowed to persons by whose voluntary assistance a ship at sea or her cargo or both have been saved in whole or in part from impending sea peril, or in recovering such property from actual peril or loss, as in cases of shipwreck, derelict, or recapture.").

<sup>2</sup> Curran also sued Fronabarger and the presiding judge and prosecuting attorney from his state criminal trial. But Curran sought preliminary injunctive relief against the State only. And the denial of the preliminary injunction is the sole issue in this interlocutory appeal. See 28 U.S.C. § 1292(a)(1).

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including its application of the *Younger* doctrine. *Nimer v. Litchfield Twp. Bd. of Trs.*, 707 F.3d 699, 700 (6th Cir. 2013).

To obtain a preliminary injunction, the plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). “Although no one factor is controlling, a finding that there is simply no likelihood of success on the merits is usually fatal.” *O’Toole v. O’Connor*, 802 F.3d 783, 788 (6th Cir. 2015) (quoting *Gonzales v. Nat’l Bd. of Med. Exam’rs*, 225 F.3d 620, 625 (6th Cir. 2000)). “A preliminary injunction is an extraordinary remedy which should be granted only if the movant carries his or her burden of proving that the circumstances clearly demand it.” *Overstreet v. Lexington-Fayette Urb. Cnty. Gov’t*, 305 F.3d 566, 573 (6th Cir. 2002).

The district court properly concluded that Curran could not show a likelihood of success on the merits because the *Younger* abstention doctrine barred his request for injunctive relief. “*Younger* abstention derives from a desire to prevent federal courts from interfering with the functions of state criminal prosecutions and to preserve equity and comity.” *Doe v. Univ. of Ky.*, 860 F.3d 365, 368 (6th Cir. 2017). It applies “when there is an ongoing state criminal prosecution.” *Id.* at 369. Under *Younger*, federal courts should abstain from resolving a case when “(1) state proceedings are currently pending; (2) the proceedings involve an important state interest; and (3) the state proceedings will provide the federal plaintiff with an adequate opportunity to raise his constitutional claims.” *Id.* (citing *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432-34 (1982)).

Here, all three conditions for abstention under the *Younger* doctrine are satisfied. As Curran’s operative amended complaint alleged and as the district court found, Curran’s state criminal proceedings were ongoing when he filed this federal lawsuit, thus satisfying the first *Younger* element. See *Hill v. Snyder*, 878 F.3d 193, 205 (6th Cir. 2017). Those state criminal proceedings involve an important state interest—namely, Tennessee’s enforcement of its criminal laws. See *Leveye v. Metro. Pub. Def.’s Office*, 73 F. App’x 792, 794 (6th Cir. 2003) (citing

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*Younger*, 401 U.S. at 43-45). And Curran has not shown that he lacks an opportunity to raise his jurisdictional arguments in his state criminal proceedings. *See Nimer*, 707 F.3d at 701 (noting that the plaintiff bears the burden to show that he is unable to present his constitutional claims in state proceedings).

When the three *Younger* criteria are met, abstention is proper unless one of three exceptions applies: (1) “the state proceeding is motivated by a desire to harass or is conducted in bad faith,” *Aaron v. O’Connor*, 914 F.3d 1010, 1019 (6th Cir. 2019) (quoting *Huffman v. Pursue, Ltd.*, 420 U.S. 592, 611 (1975)); (2) the plaintiff challenges a statute that “is flagrantly and patently violative of express constitutional prohibitions,” *id.* (quoting *Moore v. Sims*, 442 U.S. 415, 424 (1979)); or (3) “there is ‘an extraordinarily pressing need for immediate federal equitable relief,’” *id.* (quoting *Kugler v. Helfant*, 421 U.S. 117, 125 (1975)).

Curran focused solely on the second exception in his filings below, arguing that Tennessee lacks jurisdiction to prosecute him for actions taken in connection with securing compensation for “a salvage operation [that] took place on *federal property*”—i.e., the Tennessee River—because such conduct falls squarely within the federal court’s exclusive admiralty jurisdiction. But Curran cannot show that Tennessee’s fraudulent-lien law “flagrantly and patently” violates “express constitutional prohibitions” in “every clause, sentence and paragraph” and in every application. *Moore*, 442 U.S. at 432; *Zalman v. Armstrong*, 802 F.2d 199, 206 (6th Cir. 1986). Moreover, although Article III of the United States Constitution extends the judicial power to “all Cases of admiralty and maritime Jurisdiction,” U.S. Const., art. III, § 2, cl. 1, this grant of power to federal courts to hear and decide maritime cases does not necessarily preclude a state from exercising concurrent jurisdiction with the federal government over criminal acts committed within its territorial waters, *see Askew v. Am. Waterways Operators, Inc.*, 411 U.S. 325, 341 (1973); *see also Gulf Offshore Co. v. Mobil Oil Corp.*, 453 U.S. 473, 479 (1981) (“It is black letter law . . . that the mere grant of jurisdiction to a federal court does not operate to oust a state court from concurrent jurisdiction over the cause of action.”); *Hoopengartner v. United States*, 270 F.2d 465, 471 (6th Cir. 1959) (holding that the federal government may exercise concurrent jurisdiction with states

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over crimes committed within the states' territorial waters); *see also* 28 U.S.C. § 1333 (giving federal courts exclusive jurisdiction over "civil" admiralty or maritime cases). Curran's argument regarding the second exception to *Younger* therefore lacks merit, and the district court properly applied *Younger* in denying Curran's motion for a preliminary injunction.

In short, because Curran has not shown a likelihood of success on the merits, he cannot establish that the district court abused its discretion in denying him a preliminary injunction, and we need not proceed further. *Daunt v. Benson*, 956 F.3d 396, 421 (6th Cir. 2020). "[A] court must not issue a preliminary injunction where the movant presents no likelihood of merits success." *Id.* (quoting *La.-Pac. Corp. v. James Hardie Bldg. Prods., Inc.*, 928 F.3d 514, 517 (6th Cir. 2019)).

For these reasons, we **GRANT** Curran's motion for leave to file a corrected reply in support of his stay motion, **DENY** Curran's remaining motions, and **AFFIRM** the district court's order denying injunctive relief.

ENTERED BY ORDER OF THE COURT



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Kelly L. Stephens, Clerk