Trials: *Younger* Abstention Applies Despite Plaintiff's Attempt to Invoke Constitutional Issues in State Animal Cruelty Prosecution

Sixth Angel Shepherd, Inc. v. James Schiliro, No. 13-3471 (3d Cir. Jan. 9, 2015).

Terry Sliva was the president of a company that owned two buildings in Marcus Hook, Pennsylvania. She operated her law firm out of one. She was also a former board member of Sixth Angel Shepherd, Inc., a non-profit allegedly dedicated to the care of German Shepherds. On February 22, 2013 Pennsylvania SPCA staff and James Schiliro, the mayor and health code officer of Marcus Hook, executed search warrants at both buildings. They discovered 28 dogs, in varying states of neglect and surrounded by filth. The dogs were removed. Silva, as well as the non-profit and its secretary, were charged with an array of animal cruelty and other local ordinance violations.

Silva and her fellow defendants claimed the state warrants and the subsequent prosecution were "malicious efforts" by the SPCA and the mayor to "pervert the mechanisms of government" to devastate her because of an unrelated case she was fighting against Marcus Hook. In 2010 Sixth Angel Shepherd, Inc. had successfully sued Marcus Hook and SPCA, and the fee petition in the case was still pending. The earlier case and the current animal cruelty charges were both handled by the same prosecutor. Silva and her compatriots alleged that these facts showed that Marcus Hook and SPCA unconstitutionally harassed and prosecuted them. They sought to have the federal District Court for the Eastern District of Pennsylvania intervene in the state case between themselves and Marcus Hook. The city moved to have the case dismissed under *Younger v. Harris*, 401 U.S. 37 (1971). The District Court dismissed the complaint in accordance with the *Younger* doctrine without prejudice, thus permitting Silva et al to ultimately amend the complaint at the conclusion of the state proceedings. They appealed that decision.

HELD: The Third Circuit held that under the standard articulated in *Younger* the District Court properly abstained from adjudicating the appellants' claims in federal court.

DISCUSSION: For reasons rooted in both comity and equity, federal courts do not interfere with pending state matters – especially criminal ones. Under *Younger,* abstention is appropriate when the ongoing state proceeding "(1) is judicial in nature, (2) implicates important state interests, and (3) provides an adequate opportunity to raise federal challenges."

Appellants argued that this doctrine did not apply because the state district judge erroneously failed to consider their constitutional claims and that the state's remedy – a *de novo* trial before the Court of Common Pleas – was insufficient to protect them. The Circuit Court did not agree, stating it presumed the state was competent to hear constitutional claims and that to do otherwise would impugn the entire Pennsylvania state judicial system.

The court found Silva's claims to be inextricably linked with the pending prosecution. She charged that the search warrant improperly relied on a confidential informant, that it was predicated on false evidence, that she was denied a right to consent to the search before the warrant was issued, that the magistrate did not allow Silva to subpoena witnesses, and that, generally, procedural safeguards in Pennsylvania courts are inadequate to ensure constitutional

rights. The Circuit refused to "slash into such a thicket of federal claims interwoven into a pending criminal prosecution."

The court evaluated the exception to *Younger*, namely that "in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction" or "in other extraordinary circumstances where irreparable injury can be shown," a federal court may interfere in a state case. The Court found that appellants had not exhausted state appeals, and even extreme claims are not subject to federal review until the state proceeding has run its course. Further, appellants failed to prove that the prosecution was devoid of a real chance for success since it succeeded in convicting Silva at trial.

Lastly, the court did not find an extraordinary circumstance with irreparable injury – a standard met in cases where the prosecution proceeds under a statute "flagrantly and patently violative of express constitutional prohibitions in every clause, sentence and paragraph, and in whatever manner and against whomever an effort might be made to apply it."

http://www2.ca3.uscourts.gov/opinarch/112510np.pdf (last accessed Jan. 15, 2015).