

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted September 2, 2022*

Decided September 8, 2022

BeforeDIANE P. WOOD, *Circuit Judge*DAVID F. HAMILTON, *Circuit Judge*MICHAEL Y. SCUDDER, *Circuit Judge*

No. 22-1144

DOUGLAS ROBERT SHAFFER,
*Plaintiff-Appellant,**v.*STATE OF INDIANA, et al.,
*Defendants-Appellees.*Appeal from the United States District
Court for the Northern District of Indiana,
Fort Wayne Division.

No. 1:21-CV-479-HAB-SLC

Holly A. Brady,
*Judge.***ORDER**

Douglas Robert Shaffer appeals the dismissal of his civil-rights action against various state actors with regard to tax-delinquency proceedings that had been pending in state court. The district court ruled that Shaffer's claims were barred by the *Younger* abstention doctrine and dismissed the case. We affirm but on different grounds.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. Fed. R. App. P. 34(a)(2)(C).

In 2020, the Treasurer and Auditor of Allen County, Indiana, brought proceedings against Shaffer for failing to pay property taxes on his home. While those proceedings progressed, Shaffer filed this federal suit against the State of Indiana and several state actors (including a local township assessor and the state-court judge who was presiding over the tax proceedings), asserting that the taxation violated his constitutional right to property. See 42 U.S.C. § 1983. Shaffer asked the district court to enjoin the state-court proceedings. The district court determined that the state-court proceedings satisfied the criteria for abstention under *Younger v. Harris*, 401 U.S. 37, 43 (1971), and dismissed the case for lack of jurisdiction.

District courts should abstain under *Younger* only in three “exceptional circumstances”: (1) ongoing state criminal prosecutions, (2) certain civil enforcement proceedings, and (3) civil proceedings involving orders “uniquely in furtherance of the state courts’ ability to perform their judicial functions.” *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, 78 (2013) (internal quotations omitted). From the record before us, it is not clear that Shaffer’s state tax-delinquency proceedings fit into any of these categories (and the district court did not specify which category applied here).¹

But we may affirm on any ground supported by the record on which the losing party has had an opportunity to be heard. *Perry v. Coles County*, 906 F.3d 583, 587 n.4 (7th Cir. 2018). We conclude that dismissal on jurisdictional grounds is required for different but closely related reasons protecting federalism interests.

First, under the Tax Injunction Act, federal district courts do not have jurisdiction to “enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.” 28 U.S.C. § 1341; *Empress Casino Joliet Corp. v. Balmoral Racing Club, Inc.*, 651 F.3d 722, 725 (7th Cir. 2018).

Second, taxpayers cannot avoid the Tax Injunction Act by suing for damages instead of an injunction: “taxpayers are barred by the principle of comity from asserting § 1983 actions against the validity of state tax systems in federal courts.” *Fair Assessment*

¹ Shaffer also relies on language from a passage in *American Jurisprudence* saying that “a challenge to the validity of a tax on exempt property ... may be filed directly in district court.” 72 Am. Jur. 2d *State and Local Taxation* § 683 (2022). But he misconstrues the reference to the “district court,” which, according to the underlying state decision, concerns not a federal court but one of the trial courts in the Louisiana state judicial system. See *Triangle Marine, Inc. v. Savoie*, 681 So. 2d 937 (La. 1996).

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in Real Estate Ass'n, Inc. v. McNary, 454 U.S 100, 116 (1981); accord, e.g., *City of Fishers v. DirecTV*, 5 F.4th 750, 753 (7th Cir. 2021); *Capra v. Cook County Bd. of Review*, 733 F.3d 705, 712–13 (7th Cir. 2013); *Jensen v. State Bd. of Tax Comm'rs*, 763 F.2d 272, 277 (7th Cir. 1985). Nothing in the record (or the state-court docket, which is publicly available) indicates that the state-court remedies were not “plain, adequate, and complete,” such that abstention would be inappropriate. *Fair Assessment in Real Estate*, 454 U.S. at 116. The district court properly abstained from hearing this suit, and for this form of abstention, the appropriate action is dismissal rather than a stay of the action pending actions in the state courts.

AFFIRMED