

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 9, 2026

Christopher M. Wolpert
Clerk of Court

WILLIAM GARDNER,

Plaintiff - Appellant,

v.

STATE OF NEW MEXICO,
NEW MEXICO BOARD OF DENTAL
HEALTH; CHARLES SCHUMACHER,
in his official capacity; JENNIFER
THOMPSON, in her official capacity;
LAUREN CUNNINGHAM, in her official
capacity; JEFFREY WEATON, in his
official capacity; MELISSA BARBARA,
in her official capacity; DAVID
WARREN, in his official capacity;
BURRELL TUCKER, in his official
capacity; JOLYNN GALVIN, in her
official capacity; DENISE MYRICK, in
her official capacity; HOLLY
BEAUMONT, in her official capacity;
KEVIN MCMAHON, in his official
capacity; NEW MEXICO DEPARTMENT
OF JUSTICE; DELILIA TENORIO, in her
official capacity; NEW MEXICO
REGULATION AND LICENSING
DEPARTMENT; ROBERTA PEREA, in
her official capacity,

Defendants - Appellees.

No. 26-2006
(D.C. No. 1:25-CV-00730-SMD-SCY)
(D. N.M.)

ORDER AND JUDGMENT*

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding

Before **TYMKOVICH, MATHESON, and PHILLIPS**, Circuit Judges.

The New Mexico Board of Dental Health revoked William Gardner's dental license. A few years later he asked the Board to reinstate his license. The Board refused, and Mr. Gardner filed this lawsuit.¹ He sued the State of New Mexico, some of its agencies, and individual employees of those agencies. He sought various forms of relief, including reinstatement of his dental license.

The district court dismissed the case without prejudice for two reasons. First, the court concluded that Eleventh Amendment immunity barred Mr. Gardner's claims. Second, it held that the *Younger* doctrine² required it to abstain from hearing the case because Mr. Gardner's appeal of the Board's decision was pending in state court.

We review the district court's rulings de novo. *See Free Speech Coal., Inc. v. Anderson*, 119 F.4th 732, 735 (10th Cir. 2024) (Eleventh Amendment immunity); *Columbian Fin. Corp. v. Stork*, 811 F.3d 390, 394 (10th Cir. 2016) (*Younger* abstention).

precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ Mr. Gardner represents himself, so we construe his filings liberally. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

² *Younger v. Harris*, 401 U.S. 37 (1971).

We begin with immunity. Mr. Gardner presents no challenge to the district court’s conclusion that Eleventh Amendment immunity barred his claims against New Mexico and its agencies. He has therefore waived any challenge to that conclusion. *See Toevs v. Reid*, 685 F.3d 903, 911 (10th Cir. 2012).

As for the individual state officials, he argues that the claims against them can proceed under *Ex parte Young*, 209 U.S. 123 (1908). To evaluate this argument, we “conduct a straightforward inquiry into whether the complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.” *Verizon Md., Inc. v. Pub. Serv. Comm’n of Md.*, 535 U.S. 635, 645 (2002) (brackets and internal quotation marks omitted).

We agree that *Ex parte Young* permits the district court to hear the claims against the state officials seeking reinstatement of Mr. Gardner’s license. These claims allege an ongoing constitutional violation—the continued denial of reinstatement without due process. And they seek prospective injunctive relief ordering his reinstatement. The Eleventh Amendment does not bar claims seeking this relief.³ *See Meiners v. Univ. of Kan.*, 359 F.3d 1222, 1232–33 (10th Cir. 2004) (holding that a claim seeking reinstatement of employment fell outside of Eleventh Amendment immunity); *Buchwald v. Univ. of N.M. Sch. of Med.*, 159 F.3d 487,

³ The district court did not address whether the named officials “have the power” to reinstate Mr. Gardner’s license. *Eaves v. Polis*, 167 F.4th 1304, 1313 (10th Cir. 2026). We express no opinion on that point. We conclude only that reinstatement of his dental license is the type of relief available under *Ex parte Young*.

495–96 (10th Cir. 1998) (holding that a claim seeking admission to medical school fell outside of Eleventh Amendment immunity).

Seeing things differently, the district court held that *Ex parte Young* did not apply to Mr. Gardner’s “request for reinstatement of his dental license” because “it is a request for relief from past alleged harms.” R. at 224. But a claim can fit under *Ex parte Young* even if it seeks “to right a previous wrong.” *Opala v. Watt*, 454 F.3d 1154, 1158 (10th Cir. 2006) (internal quotation marks omitted).

Although Mr. Gardner has shown that *Ex parte Young* allows him to seek reinstatement, he fails to show that the doctrine allows him to pursue other forms of relief. He argues on appeal that the doctrine allows him to pursue claims seeking a judgment declaring that the Board’s procedures violate the Fourteenth Amendment and seeking injunctive relief requiring a hearing on his reinstatement application. The problem is that his amended complaint never sought that relief.⁴ Our limited role is “to correct errors made by the district court in assessing the legal theories presented to it.” *Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1130 (10th Cir. 2011). We decline to opine about forms of relief not included in the complaint.⁵

⁴ We recognize that the complaint did ask that a specific Board action “be declared a violation” of Mr. Gardner’s “due process rights.” R. at 51. But that relief is different from the relief he pursues on appeal—a judgment declaring that the Board’s procedure violates the Fourteenth Amendment. In any event, the *Ex parte Young* doctrine “may not be used to obtain a declaration that a state officer has violated a plaintiff’s federal rights in the past.” *Buchwald*, 159 F.3d at 495.

⁵ While Mr. Gardner’s complaint did not seek a declaratory judgment or a hearing before the Board, it did seek relief other than reinstatement of his license. But on appeal he never argues that *Ex parte Young* covers any form of relief

Having eluded the Eleventh Amendment, Mr. Gardner's claims seeking to reinstate his license must clear yet another hurdle—*Younger* abstention. The *Younger* doctrine requires federal courts to abstain from exercising jurisdiction when three conditions are present. *Columbian Fin. Corp.*, 811 F.3d at 394–95. One condition is the existence of an ongoing state proceeding. *Id.* at 394. The district court determined this condition was satisfied by Mr. Gardner's appeal of the reinstatement denial to a state district court.

Mr. Gardner tells us on appeal, however, that the state court dismissed his appeal. Our review of the public state-court records confirms the dismissal.⁶ And although Mr. Gardner filed a notice of appeal, several months have passed, and we see no record of a pending appeal. It thus appears the state proceedings have concluded. And so *Younger* no longer requires the district court to abstain from hearing Mr. Gardner's claims seeking reinstatement of his license. *See id.* at 395.

Mr. Gardner devotes much of his brief to the merits of his claims. But the district court limited its analysis to jurisdictional issues, so we will too. To the extent Mr. Gardner contends the district court should have addressed the merits despite its conclusion that it lacked jurisdiction, he is mistaken. Once the court determined it

mentioned in the complaint aside from reinstatement. He has therefore waived any challenge to the district court's conclusion that those other forms of relief were barred under the Eleventh Amendment. *See Toevs*, 685 F.3d at 911.

⁶ We take judicial notice of the state court's public records. *See United States v. Ahidley*, 486 F.3d 1184, 1192 n.5 (10th Cir. 2007).

lacked jurisdiction, it had no authority to decide the merits. *See Cunningham v. BHP Petroleum Gr. Brit. PLC*, 427 F.3d 1238, 1245 (10th Cir. 2005).

* * *

We grant Mr. Gardner's motion to proceed without prepaying costs or fees. We deny his motion to disqualify opposing counsel; no attorney has appeared on the defendants' behalf in this appeal. We vacate the portion of the district court's judgment dismissing Mr. Gardner's claims against the state officials seeking reinstatement of his dental license, and we remand for further proceedings. We otherwise affirm.

Entered for the Court

Gregory A. Phillips
Circuit Judge