

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Schaffer v. Clay

No. 24-cv-04103-PCP (N.D. Cal. Mar. 31, 2025) · No. 24-cv-04103-PCP · Decided March 31, 2025

OPINION

Schaffer v. Clay

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 CRAIG RAYMOND SCHAFFER, Case No. 24-cv-04103-PCP 8 Plaintiff, ORDER
DISMISSING PETITION IN

PART, REQUIRING PETITIONER TO

9 v. FILE A RESPONSE TO THIS ORDER,

AND DENYING MOTION TO

10 JENNIE CLAY, et al., PROCEED IN FORMA PAUPERIS

11 Defendants. Re: Dkt. Nos. 1, 7 12 Petitioner Craig Schaffer, a state prisoner proceeding pro se,
has filed a petition for a writ 13 of habeas corpus under 28 U.S.C. § 2254. Dkt. No. 6. The Petition
is now before the Court for 14 review pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules
Governing Section 2254 Cases. Mr. 15 Schaffer also has filed a motion to dismiss the state
charges, which appears duplicative of the 16 habeas petition, and a motion for permission to
proceed in forma pauperis. Dkt. Nos. 1, 7. 17 Mr. Schaffer’s motion to proceed in forma pauperis
is DENIED because the initial 18 assessment would exceed the filing fee for this habeas petition.
19 For the reasons given below, the Petition’s request for release and for interference in the 20
state criminal trial is DISMISSED, and the motion requesting release is DENIED. Mr. Schaffer 21
must wait until his state criminal proceedings have concluded before seeking relief from those 22
proceedings in a federal court. 23 If Mr. Schaffer wishes to challenge the conditions of his
confinement, he must do so in a 24 civil rights action. Mr. Schaffer must notify the Court in
writing whether he wishes the Court to 25 convert this habeas action to a civil rights action. 26 27
I. Discussion 1 custody pursuant to the judgment of a state court only on the ground that he is in
custody in 2 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §
2254(a); Rose v. 3 Hodges, 423 U.S. 19, 21 (1975). A district court shall “award the writ or issue
an order directing 4 the respondent to show cause why the writ should not be granted, unless it
appears from the 5 application that the applicant or person detained is not entitled thereto.” 28
U.S.C. § 2243. 6 A. Release request 7 Mr. Schaffer asks for the criminal case against him to be

dismissed, and for his release, 8 because he believes (1) his commitment became unlawful after he was found incompetent to stand 9 trial, (2) the incompetency finding was incorrect, and (3) his arrest followed entrapment, swatting, 10 illegal surveillance, stalking by an unidentified person, and “electronic warfare.” Pet. at 5. 11 The Petition reveals that Mr. Schaffer’s criminal trial is ongoing. See *id.* at 2 (showing Mr. 12 Schaffer has not yet had a criminal trial), 7 (asking this Court to dismiss the ongoing criminal case 13 in state superior court). In an abundance of caution, the Court searched the records of the 14 California state courts. These records confirmed that Mr. Schaffer’s criminal case is ongoing. See 15 *People v. Schaffer*, Case No. CRI-23020851 (San Francisco Cty. Super. Ct. filed Dec. 22, 2023). 16 The federal courts are required to abstain from considering Mr. Schaffer’s habeas petition 17 while it is ongoing, and until all state appeals have concluded. In *Younger v. Harris*, 401 U.S. 37 18 (1971), the United States Supreme Court held that principles of comity and federalism prohibit a 19 federal court from interfering with ongoing state criminal proceedings by granting injunctive or 20 declaratory relief absent extraordinary circumstances. See *id.* at 43–54. Circumstances which have 21 been found sufficiently “extraordinary” include the lack of an adequate legal remedy in state court 22 for the federal plaintiff, bias in the state court tribunal, and indefinite detention of the federal 23 plaintiff without a bail hearing or without counsel in the state action. See *Mockaitis v. Harclerod*, 24 104 F.3d 1522, 1528 (9th Cir. 1997) (discussing the lack of an adequate remedy in state court); 25 *Gibson v. Berryhill*, 411 U.S. 564, 577–79 (1973) (concluding abstention was inappropriate due to 26 the state court judge’s bias); *Arevalo v. Hennessy*, 882 F.3d 763, 767 (9th Cir. 2018) (discussing 27 prolonged detention without a bail hearing); *Betschart v. Oregon*, 103 F.4th 607 (9th Cir. 2024) 1 counsel). Here, Mr. Schaffer does not complain of any such extraordinary circumstances. See 2 generally Pet. Under *Younger*, this Court cannot interfere in the state trial court’s criminal 3 proceedings. 4 *Younger* applies throughout appellate proceedings, requiring that state appellate review of 5 a state court judgment be exhausted before federal court intervention is permitted. See *Dubinka v. 6 Judges of the Super. Ct.*, 23 F.3d 218, 223 (9th Cir. 1994). *Younger* requires abstention even if the 7 federal habeas petition attacks only the guilt phase of the petitioner’s trial, while the pending state 8 proceeding attacks only the penalty phase. See *Edelbacher v. Calderon*, 160 F.3d 582, 582–86 (9th 9 Cir. 1998). Thus, Mr. Schaffer cannot seek release from the federal court until his criminal trial 10 has concluded and he has unsuccessfully appealed to the First District Court of Appeal and to the 11 California Supreme Court. See 28 U.S.C. § 2254(b), (c) (explaining the exhaustion requirement); 12 *Rose v. Lundy*, 455 U.S. 509, 515–16 (1982) (same). 13 Mr. Schaffer’s claims for release and for dismissal of his criminal charges are 14 DISMISSED. This dismissal is without prejudice so that Mr. Schaffer may pursue a federal habeas 15 action once state proceedings have concluded. See 28 U.S.C. § 2244(d) (noting one-year statute of 16 limitations for filing of federal petition for writ of habeas corpus). 17 B. Medical claims 18 Mr. Schaffer also claims that he is being forcibly medicated and forced to undergo 19 “conversion therapy” related to his transgender

identity, under which the “state hospital illegally 20 changed [his] sex back to female.” Pet. at 5. These claims do not concern a request for release, and 21 so are not barred by the Younger doctrine. See *Bean v. Matteucci*, 986 F.3d 1128, 1135–36 (9th Cir. 2021) (holding Younger abstention was not required because the forcible administration of 23 antipsychotic medications on a pretrial detainee constitutes a particularly severe invasion of liberty 24 and the detainee’s right to avoid forcible administration of medications cannot be fully vindicated 25 after trial). 26 Although these claims are not barred by Younger, they cannot proceed in this habeas 27 action. “Federal law opens two main avenues to relief on complaints related to imprisonment: a 1 Rev. Stat. § 1979, as amended, 42 U.S.C. § 1983.” *Hill v. McDonough*, 547 U.S. 573, 579 (2006) 2 (citation omitted). The Ninth Circuit has held that if the claim “does not lie at the ‘core of habeas 3 corpus,’ it may not be brought in habeas corpus but must be brought, ‘if at all,’ under 4 § 1983.” *Nettles v. Grounds*, 830 F.3d 922, 931 (9th Cir. 2016) (emphases added, citations 5 omitted). See also *Ramirez v. Galaza*, 334 F.3d 850, 859 (9th Cir. 2003) (“habeas jurisdiction is 6 absent, and a § 1983 action proper, where a successful challenge to a prison condition will not 7 necessarily shorten the prisoner’s sentence”). 8 Here, Mr. Schaffer’s claims regarding medication and conversion therapy concern the 9 conditions of his confinement and should be brought in an action under § 1983. A district court 10 may construe a habeas petition by a prisoner attacking the conditions of his confinement as a civil 11 rights action under 42 U.S.C. § 1983. See *Wilwording v. Swenson*, 404 U.S. 249, 251 (1971). 12 Before doing so, a district court must advise the prisoner of the consequences of construing a 13 habeas petition as a civil rights complaint and provide an opportunity to withdraw or amend the 14 pleading. See *Nettles*, 830 F.3d at 936. 15 On or before May 30, 2025, Mr. Schaffer must file a written response indicating whether 16 he wishes (i) the Court to convert this § 2254 habeas action into one filed under 42 U.S.C. § 1983; 17 or (ii) for the Court to dismiss the remainder of the Petition. If Mr. Schaffer prefers neither option, 18 he may file a notice of voluntary dismissal as his response to this order. 19 Before he chooses option (i), to ask the Court to convert this action to a civil rights action 20 under 42 U.S.C. § 1983, Mr. Schaffer should be aware of the following. The filing fee for a habeas 21 petition is five dollars; for civil rights cases, however, the fee is now \$405.00 (\$350.00 if pauper 22 status is granted) and under the Prisoner Litigation Reform Act the prisoner is required to pay it, 23 even if granted in forma pauperis status, by way of deductions from income to the prisoner’s trust 24 account. See 28 U.S.C. § 1915(b). A prisoner who might be willing to pay the filing fee for a 25 habeas petition might feel otherwise about a civil rights complaint for which the \$405.00 fee 26 would be deducted from income to his prisoner account. Also, a civil rights complaint which is 27 dismissed as malicious, frivolous, or for failure to state a claim would count as a “strike” under 28 1 barred from in forma pauperis status for all future cases. 2 Mr. Schaffer appears to be represented by counsel in his state criminal trial. See generally 3 Pet. (referring to counsel). Mr. Schaffer may wish to consult with his state counsel as to whether 4 his rights are more likely to be vindicated in state or in federal court, and as to whether counsel

5 would be willing to represent him in a civil rights action concerning forced medication and 6 conversion therapy. 7 If Mr. Schaffer chooses option (i), the Court then will set a deadline for him to file a 8 complaint under 42 U.S.C. § 1983, and to file a complete application to proceed in forma pauperis 9 (or pay the full filing fee). He may also move for appointment of pro bono counsel at that time.

10 II. CONCLUSION

11 Mr. Schaffer's claims requesting release and dismiss of the criminal charges against him 12 are DISMISSED. Dismissal is without prejudice to Mr. Schaffer filing a new habeas action after 13 his state criminal trial and all state-court appeals have concluded. Mr. Schaffer's motion to dismiss 14 the charges against him is DENIED. 15 On or before May 30, 2025, Mr. Schaffer must file a written response indicating whether 16 he wishes (i) the Court to convert this § 2254 habeas action into one filed under 42 U.S.C. § 1983; 17 or (ii) for the Court to dismiss the remainder of the Petition. 18 Failure to file a response in accordance with this order will result in a finding that 19 further leave to amend would be futile, and this action will be dismissed. For the reasons 20 explained above, this dismissal would be without prejudice. 21 Mr. Schaffer's in forma pauperis application is DENIED because the initial assessment 22 would exceed the filing fee for a habeas action. See 28 U.S.C. § 1915(b)(1) (requiring a court to 23 assess an initial filing fee of 20 percent of a prisoner's average monthly deposits or monthly 24 balance, whichever is greater). 25 It is Mr. Schaffer's responsibility to prosecute this case. He must keep the Court informed 26 of any change of address by filing a separate paper with the Clerk headed "Notice of Change of 27 Address," and must comply with the Court's orders in a timely fashion. Failure to do so will result 1 41(b). 2 IT IS SO ORDERED. 3 Dated: March 31, 2025 ey be~ 5 P. Casey Pitt 6 United States District Judge 7 8 9 10 1] as 12 «14 15 16 Oo Z 18 19 20 21 22 23 24 25 26 27 28