

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA,  
MISSOULA DIVISION

Victor C. Fourstar v. Missoula County Sheriff Jeremiah Peterson

Cause No. CV 25-141-M-DWM (D. Mont. Feb. 3, 2026) · No. CV 25-141-M-DWM · Decided February 3, 2026

SUMMARY

The United States District Court for the District of Montana denied Victor C. Fourstar’s motion for a certificate of appealability. The court held that Fourstar had not shown that reasonable jurists could debate either the denial of his motion to reopen under Federal Rule of Civil Procedure 60(b) or the dismissal of his underlying habeas petition. The order was entered after the court previously dismissed his pretrial-detainee habeas claims as unexhausted and subject to Younger abstention.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                          |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Montana, Missoula Division                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Donald W. Molloy                                                                                                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the District of Montana, Missoula Division                                                                                                                                                                                                                              |
| DECIDED               | February 3, 2026                                                                                                                                                                                                                                                                                         |
| DOCKET                | CV 25-141-M-DWM                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | cert_denied                                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Petitioner sought a certificate of appealability after the court denied his motion to reopen a previously dismissed habeas matter.                                                                                                                                                                       |
| STANDARD OF REVIEW    | A certificate of appealability for an appeal from denial of Rule 60(b) relief requires a showing that reasonable jurists could debate both whether the district court abused its discretion in denying Rule 60(b) relief and whether the underlying habeas petition states a valid constitutional claim. |
| PRECEDENTIAL VALUE    | Unpublished district court order; precedential status is unknown.                                                                                                                                                                                                                                        |
| PARTIES               | Victor C. Fourstar v. Missoula County Sheriff Jeremiah Peterson                                                                                                                                                                                                                                          |

TOPICS

- federal habeas corpus
- motion for reconsideration
- appellate procedure
- civil procedure
- standard of review

## PRACTICE AREAS

Federal habeas corpus

Civil procedure

Appellate procedure

## QUESTIONS PRESENTED

1. Whether Fourstar was entitled to relief from the dismissal judgment under Federal Rule of Civil Procedure 60(b).
2. Whether Fourstar was entitled to a certificate of appealability to appeal the denial of his motion to reopen and the dismissal of his underlying habeas petition.

## HOLDINGS

1. Fourstar was not entitled to relief under Rule 60(b) because he failed to establish any ground under Rule 60(b)(1)-(5) or extraordinary circumstances under Rule 60(b)(6).
2. Fourstar was not entitled to a certificate of appealability because he did not show that reasonable jurists could debate either the denial of Rule 60(b) relief or whether his underlying habeas petition stated a valid constitutional claim.

## KEY QUOTATIONS

*“Fourstar is entitled to a certificate of appealability only if he shows “that (1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion and (2) jurists of reason would find it debatable whether the underling [habeas corpus petition] states a valid claim of the denial of a constitutional right.””*

## FACTUAL BACKGROUND

Fourstar was initially a pretrial detainee at the Missoula County Detention Facility and filed a habeas petition challenging his confinement. After dismissal, he was released, his backpack containing legal documents was stolen, and he was hospitalized. He was later returned to custody on a new criminal charge and sought to reopen the dismissed matter, but the court found no factual or legal basis for relief.

## PROCEDURAL HISTORY

Fourstar initially filed an amended petition under 28 U.S.C. § 2254 while he was a pretrial detainee. The court construed the petition under 28 U.S.C. § 2241, determined that the claims were unexhausted, abstained under *Younger v. Harris*, and dismissed the matter. After Fourstar moved to reopen based on his release, loss of legal documents, hospitalization, and subsequent detention, the court denied that motion. Fourstar then moved for a certificate of appealability, which the court denied.

## DISPOSITION

cert\_denied

## CASES CITED

- *Younger v. Harris*, 401 U.S. 37, 43-54 (1971)
- *Foley v. Biter*, 793 F.3d 998, 1002 (9th Cir. 2015)
- *Hamilton v. Newland*, 374 F.3d 822, 825 (9th Cir. 2004)
- *United States v. Winkles*, 795 F.3d 1134, 1142-43 (9th Cir. 2015)

## OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION VICTOR C. FOURSTAR, Cause No. CV 25-141-M-DWM Petitioner, vs.  
MISSOULA COUNTY SHERIFF ORDER JEREMIAH PETERSON, Respondent. Petitioner Victor C. Fourstar (“Fourstar”), a pretrial detainee incarcerated at the Missoula County Detention Facility, filed an amended petition seeking a writ of habeas corpus under 28 U.S.C. § 2254 and an affidavit in support.

See (Docs. 4 & 4-1.) Because Fourstar was a pretrial detainee at the time of filing, his petition was construed as a request for relief under 28 U.S.C. §2241. Fourstar was informed that to the extent he stated cognizable claims, the claims were unexhausted.

Moreover, because Fourstar failed to present special circumstances, abstention was appropriate pursuant to *Younger v. Harris*, 401 U.S. 37, 43-54 (1971). See generally, (Doc. 6.) The dismissal order was mailed to Fourstar at the Missoula County Detention Center on October 24, 2025. Fourstar filed a motion seeking to reopen this matter. (Doc. 8.) He explained that on November 24, 2025, he was released from custody.

Following his release, Fourstar’s backpack which contained all of his legal documents was stolen. (Id. at 1.) He subsequently experienced health issues which necessitated is hospitalization. Fourstar is presently back in custody of the Missoula County Detention Center following a new criminal charge of Sexual Intercourse without Consent. (Id. at 2.) Based upon these factors he asked that this matter be reopened and that he be allowed to respond to any pleadings.

(Id.) It was explained to Fourstar that there were no issues pending prior to entry of the dismissal judgment in October, thus, there was nothing to which Fourstar needed to respond. Moreover, Fourstar was provided an opportunity to amend his petition prior to dismissal. There being no factual or legal reason to reopen the matter, Fourstar’s motion was denied.

(Doc. 9.) Fourstar now seeks a motion for a certificate of appealability. (Doc. 10.) Relative to his underlying petition, it was determined that because Fourstar’s claims were unexhausted, reasonable jurists would find no reason to encourage further proceedings and a certificate of appealability was denied. (Doc. 6 at 6.) It is noted that Fourstar is seeking to challenge his present confinement and has filed an action that is presently pending before the Court, *Fourstar v. State of Montana et al.*, Cause No. CV-26-18-M-DLC, Pet. (filed Jan.

21, 2026). To the extent that Fourstar's motion to reopen could be construed as a request for relief from judgment pursuant to Fed. Rule Civ. Pro. Rule 60(b), it appears Fourstar now attempts to argue that he should have been issued a certificate of appealability so that he could appeal the denial of his motion to reopen. Rule 60(b) provides that the court may relieve a party from a final judgment for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

In his motion to reopen, Fourstar did not show that any of the provisions of Rule 60(b)(1)-(5) were satisfied, nor did he demonstrate that "extraordinary circumstances" existed to justify relief from the judgment under Rule 60(b)(6). See *Foley v. Biter*, 793 F. 3d 998, 1002 (9th Cir. 2015)(stating that Rule 60(b) is applied "sparingly," and that "[a] party is entitled to relief under Rule 60(b)(6) where 'extraordinary circumstances prevented him from taking timely action to prevent or correct an erroneous judgment'")(quoting *Hamilton v. Newland*, 374 F. 3d 822, 825 (9th Cir.

2004). As explained in the order denying Fourstar's motion to reopen, his allegations did not present any basis suggesting that the judgment entered in this matter was invalid or incorrect. Relative to his present filing, Fourstar is entitled to a certificate of appealability only if he shows "that (1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion and (2) jurists of reason would find it debatable whether the underling [habeas corpus petition] states a valid claim of the denial of a constitutional right." *United States v. Winkles*, 795 F. 3d 1134, 1142-43 (9th Cir.

2015)(holding that a COA is required to appeal the denial of a Rule 60(b) motion for relief from judgment). Here Fourstar has not demonstrated that he is entitled to a certificate of appealability in connection with either the order dismissing his underlying petition or the present order denying his request to a certificate of appealability relative to his request to the relief from judgment/ motion to reopen.

Accordingly, IT IS HEREBY ORDERED that Fourstar's motion for a certificate of appealability (Doc. 10) is DENIED. DATED this 3<sup>rd</sup> day of February, 2026. Donald W. Mglloy, Ipiistrict Judge  
United States Distric Court