

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Cullum v. Borton

Cullum · No. 1:26-cv-00258-DKG · Decided June 3, 2026

SUMMARY

The United States District Court for the District of Idaho conducted an initial review of Berle A. Cullum’s 28 U.S.C. § 2241 habeas petition challenging a pending Idaho criminal proceeding and denial of parole. The order concludes that Cullum had not exhausted state remedies, had not shown special circumstances warranting federal intervention, and was subject to Younger abstention; it also identifies improper habeas respondents. Cullum was given 21 days to substitute the proper custodian and submit further argument, and the case was reassigned to a district judge.

CASE DETAILS

COURT	United States District Court for the District of Idaho
WRITING FOR THE COURT	Dabo K. Grasham
JURISDICTION	United States District Court for the District of Idaho
DECIDED	June 3, 2026
DOCKET	1:26-cv-00258-DKG
DISPOSITION	other
PROCEDURAL POSTURE	Initial review of a state prisoner's pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241, challenging a pending state criminal proceeding and denial of parole. The magistrate judge concluded that dismissal appeared appropriate, permitted the petitioner to respond, and ordered reassignment to a United States district judge because the parties had not consented to magistrate-judge jurisdiction for final orders.
STANDARD OF REVIEW	Under Habeas Rule 4, a habeas petition may be dismissed if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. The court also applied the exhaustion requirement for § 2241 claims and the Younger abstention framework.
PRECEDENTIAL VALUE	Unpublished initial review and reassignment order; no final merits disposition.
PARTIES	Berle A. Cullum v. Judge Joseph W. Borton, Prosecuting Attorney, Idaho Parole Commission

TOPICS

federal habeas corpus

speedy trial

due process

criminal procedure

federalism

PRACTICE AREAS

federal habeas corpus

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the petitioner could obtain pretrial federal habeas relief under 28 U.S.C. § 2241 without exhausting available state remedies.
2. Whether special circumstances excused the exhaustion requirement based on alleged prosecutorial delay, bad faith, harassment, or irreparable injury.
3. Whether the petitioner's speedy-trial claims should be addressed by the federal court or through the state criminal and appellate proceedings.
4. Whether denial of parole implicated a federally protected liberty interest or otherwise justified federal interference with the pending state prosecution.
5. Whether Younger abstention applied to the petitioner's challenge to the ongoing state criminal proceeding.
6. Whether the petitioner was required to name his current custodian as the respondent in the habeas action.

HOLDINGS

1. A state prisoner seeking pretrial habeas relief under § 2241 ordinarily must exhaust available state remedies by giving the state courts a full and fair opportunity to resolve the federal claims through one complete round of state appellate review.
2. The petitioner did not demonstrate the unusual special circumstances necessary to excuse exhaustion of his state remedies.
3. The petitioner's speedy-trial claims should be resolved through the ongoing state criminal case and, if necessary, the Idaho appellate courts rather than through federal interference at the interlocutory stage.
4. Under Idaho law, the petitioner has no state-created liberty interest or federal constitutional right to parole, so the alleged denial of parole does not support a federal due process claim or justify interference with the pending state prosecution.
5. Abstention under Younger appears appropriate because the petition seeks federal interference with an ongoing state criminal proceeding, the proceeding implicates important state interests, and the state courts provide an adequate opportunity to raise the constitutional claims.
6. A habeas petitioner in custody must generally name the official with power to produce the petitioner, ordinarily the current warden or sheriff, as the respondent.

KEY QUOTATIONS

“A pre-requisite to bringing a federal habeas corpus petition under 28 U.S.C. § 2241 is exhausting one’s federal claims in state court.”

“There is “no right under the Federal Constitution to be conditionally released before the expiration of a valid sentence, and the States are under no duty to offer parole to their prisoners.””

“Under Younger v. Harris, 401 U.S. 37 (1971), federal abstention from interference in state criminal proceedings is warranted when “(1) there is an ongoing state judicial proceeding; (2) the proceeding implicates important state interests; (3) there is an adequate opportunity in the state proceedings to raise constitutional challenges; and (4) the requested relief seeks to enjoin or has the practical effect of enjoining the ongoing state judicial proceeding.””

FACTUAL BACKGROUND

Cullum was serving a five-to-twenty-year Idaho sentence for drug trafficking when prosecutors filed two lewd-and-lascivious-conduct charges in 2021 based on alleged incidents from 2015 to 2018. He was not notified of the charges until a July 31, 2024, pre-parole hearing, and his pro se speedy-trial motion was not adjudicated until the state court denied it in November 2025 after counsel filed supporting briefing. Cullum alleged prosecutorial delay, conspiratorial conduct, intimidation of defense counsel, and parole denial based on the pending charges, but the state record showed probable cause and did not substantiate those allegations.

PROCEDURAL HISTORY

Cullum was convicted in Idaho state court in 2020 and was serving a five-to-twenty-year sentence when Idaho prosecutors filed additional criminal charges in 2021. After learning of the charges in 2024, he moved to dismiss on speedy-trial grounds; the state trial court denied the motion in 2025, and the state case was scheduled for trial in July 2026. Cullum then filed this federal § 2241 petition. On initial review, the court found apparent exhaustion and Younger-abstention deficiencies, denied two motions, allowed a response within 21 days, and reassigned the case to a district judge.

DISPOSITION

other

CASES CITED

- *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 489–93 (1973)
- *Carden v. Montana*, 626 F.2d 82, 83–84 (9th Cir. 1980)
- *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999)
- *New York ex rel. Epps v. Nenna*, 214 F. Supp. 102, 105 (S.D.N.Y. 1963)
- *Neville v. Cavanagh*, 611 F.2d 673, 676 (7th Cir. 1979)
- *Perez v. Ledesma*, 401 U.S. 82, 85 (1971)
- *Whelan v. Noelle*, 966 F. Supp. 992, 998–99 (D. Or. 1997)
- *Cohen v. Warden, Montgomery County Detention Center*, 252 F. Supp. 666, 672 (D. Md. 1966)

- Smith v. Hooey, 393 U.S. 374, 377 (1969)
- Lawrence v. Blackwell, 298 F. Supp. 708, 715–16 (N.D. Ga. 1969)
- Kentucky Department of Corrections v. Thompson, 490 U.S. 454, 459–60 (1989)
- Swarthout v. Cooke, 562 U.S. 216, 220–21 (2011)
- Board of Pardons v. Allen, 482 U.S. 369, 380–81 (1987)
- Sass v. California Board of Prison Terms, 461 F.3d 1123, 1127 (9th Cir. 2006)
- Hayward v. Marshall, 603 F.3d 546 (9th Cir. 2010) (en banc)
- Banks v. State of Idaho, 920 P.2d 905, 908 (Idaho 1996)
- Vargas v. United States Parole Commission, 865 F.2d 191, 195 (9th Cir. 1988)
- Osborn v. Butler, 712 F. Supp. 2d 1134, 1155 (D. Idaho 2010)
- Dopp v. Idaho Commission of Pardons and Parole, 84 P.3d 593, 598 (Idaho Ct. App. 2004)
- United States v. Mendoza–Lopez, 481 U.S. 828, 834 n.7 (1987)
- United States v. Palomar-Santiago, 593 U.S. 321, 327 n.2 (2021)
- R.R. Commission of Texas v. Pullman Co., 312 U.S. 496, 501 (1941)
- Younger v. Harris, 401 U.S. 37 (1971)
- Arevalo v. Hennessy, 882 F.3d 763, 765–66 (9th Cir. 2018)
- Colorado River Water Conservation District v. United States, 424 U.S. 800, 816 (1976)
- Kugler v. Helfant, 421 U.S. 117, 124 (1975)
- Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1993)
- Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996)