

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Thomas Patrick Glenn, IV v. People of San Diego, et al.

No. 25cv2523-RSH (MMP) (S.D. Cal. Oct. 30, 2025) · No. 25cv2523-RSH (MMP) · Decided October 30, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 THOMAS PATRICK GLENN, IV, Case No.: 25cv2523-RSH (MMP) 12
Petitioner, ORDER GRANTING MOTION TO 13 v. PROCEED IN FORMA PAUPERIS AND
DISMISSING CASE 14 PEOPLE OF SAN DIEGO, et al., WITHOUT PREJUDICE 15
Respondents. 16 17 18 Petitioner Thomas Patrick Glenn, IV, currently incarcerated at the Vista
Detention 19 Facility, and proceeding pro se, has filed a Petition for a Writ of Habeas Corpus
pursuant 20 to 28 U.S.C. § 2241, along with a motion to proceed in forma pauperis (“IFP”).

ECF Nos. 21 1-2. Petitioner indicates he was arrested for a controlled substance offense but
sentenced 22 on June 11, 2025, for prior convictions with the substance offense charge dismissed,
and 23 claims he was wrongfully denied diversion into a drug treatment program due to criminal
24 and incompetent acts by the judge, prosecutor and defense counsel. Id. at 4-8.

25 FAILURE TO SATISFY FILING FEE REQUIREMENT 26 A review of Petitioner’s IFP
request indicates that he has \$0.01 on account at the 27 detention facility and cannot afford the
\$5.00 filing fee. See ECF No. 2 at 4. Thus, the 28 Court GRANTS Petitioner’s application to
proceed in forma pauperis, and allows 1 Petitioner to prosecute the above-referenced action
without being required to prepay fees 2 or costs and without being required to post security.

3 FAILURE TO NAME A PROPER RESPONDENT 4 Petitioner has failed to name a proper
respondent. On federal habeas, a state prisoner 5 must name the state officer having custody of
him as the respondent. *Ortiz-Sandoval v. 6 Gomez*, 81 F.3d 891, 894 (9th Cir. 1996), citing R.
2(a), Rules Governing Section 2254 7 Cases (2019). Federal courts lack personal jurisdiction
when a habeas petition fails to name 8 a proper respondent.

See id. 9 The warden is the typical respondent. However, “the rules following section 2254 10 do
not specify the warden.” Id. “[T]he ‘state officer having custody’ may be ‘either the 11 warden of
the institution in which the petitioner is incarcerated... or the chief officer in 12 charge of state
penal institutions.’” Id., quoting R. 2(a), Rules Governing Section 2254 13 Cases (2019), 28
U.S.C. foll. § 2254 advisory committee’s note.

14 Here, Petitioner has incorrectly named “People of San Diego” and “The Attorney 15 General of
the State of California” as Respondents. See ECF No. 1 at 1. A long-standing 16 rule in the Ninth

Circuit holds “that a petitioner may not seek [a writ of] habeas corpus 17 against the State under... [whose] authority... the petitioner is in custody.

The actual 18 person who is [the] custodian [of the petitioner] must be the respondent.” *Ashley v. 19 Washington*, 394 F.2d 125, 126 (9th Cir. 1968), overruled in part on other grounds, *Braden 20 v. 30th Jud. Cir. Ct. of Kentucky*, 410 U.S. 484 (1973). This requirement exists because a 21 writ of habeas corpus acts upon the custodian of the state prisoner, the person who will 22 produce “the body” if directed to do so by the Court.

Thus, in order for this Court to 23 entertain a Petition for Writ of Habeas Corpus, Petitioner must name the person who will 24 produce “the body” if directed to do so by the Court. 25 In order for this Court to entertain the Petition filed in this action, Petitioner must 26 name the warden in charge of the detention facility in which Petitioner is presently 27 confined.

Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992) (per curiam). 28 1 Accordingly, the instant Petition is subject to dismissal for failure to name a proper 2 Respondent. 3 ABSTENTION 4 Further, the Petition must be dismissed because the Court is barred from 5 consideration of Petitioner’s contention pursuant to *Younger v. Harris*, 401 U.S. 37 (1971).

6 Under *Younger*, federal courts may not interfere with ongoing state criminal proceedings 7 absent extraordinary circumstances. *Id.* at 45-46; see *Middlesex County Ethics Comm. v. 8 Garden State Bar Ass’n*, 457 U.S. 423, 431 (1982) (*Younger* “espouse[d] a strong federal 9 policy against federal-court interference with pending state judicial proceedings....”). 10 The Ninth Circuit has explained that: “*Younger* abstention is appropriate when: (1) there is 11 ‘an ongoing state judicial proceeding’; (2) the proceeding ‘implicate[s] important state 12 interests’; (3) there is ‘an adequate opportunity in the state proceedings to raise 13 constitutional challenges’; and (4) the requested relief ‘seek[s] to enjoin’ or has ‘the 14 practical effect of enjoining’ the ongoing state judicial proceeding.” *Arevalo v. Hennessy*, 15 882 F.3d 763, 765 (9th Cir.

2018), quoting *ReadyLink Healthcare, Inc. v. State Comp. Ins.* 16 Fund, 754 F.3d 754, 758 (9th Cir. 2014). 17 Each of those criteria appear satisfied in this instance. Petitioner states that he is 18 challenging violations of trial rights relating to his June 11, 2025 sentencing in San Diego 19 Superior Court case number SCE428339, and that he filed a notice of appeal on August 8, 20 2025.

ECF No. 1 at 1-2. Meanwhile, the San Diego County Sheriff’s Department’s website 21 reflects that Petitioner was arrested by the San Diego Sheriff Office on March 13, 2025, is 22 being held without bail, and has a court date set in San Diego Superior Court on January 23 16, 2026. See Sheriff’s Who is in Jail, San Diego County Sheriff’s Department, 24 <https://apps.sdsheriff.net/wij/wij.aspx> (last visited Oct.

30, 2025). 25 Thus, it is evident Petitioner's criminal case is ongoing in the San Diego Superior 26 Court and/or in the state appellate court. It is also clear those proceedings implicate 27 important state interests. There is no indication that Petitioner cannot seek relief on his trial 28 error claims in the state court, which are the type of claims the state courts provide an 1 || opportunity to present.

Thus, it is evident that Petitioner seeks to enjoin an ongoing state 2 || judicial proceeding and abstention is appropriate. See *Drury v. Cox*, 457 F.2d 764, 764-65 3 Cir. 1972) (“[O]nly in the most unusual circumstances is a defendant entitled to have 4 federal interposition by way of injunction or habeas corpus until after the jury comes 1n, 5 || judgment has been appealed from and the case concluded in the state courts.”).

6 Accordingly, because Petitioner has not demonstrated that extraordinary 7 || circumstances exist which would relieve this Court of its obligation to abstain from 8 || interfering in the ongoing state criminal proceedings, abstention is required, and the 9 || Petition must therefore be dismissed without prejudice. See *Crossett v. Idaho*, 2024 WL 10 }/3508511, at *1 (9th Cir.

July 23, 2024) (holding that if Younger abstention applies, 11 || dismissal of the action should be without prejudice). 12 CONCLUSION AND ORDER 13 For the foregoing reasons, the Court GRANTS Petitioner's Motion to proceed IFP 14 || and DISMISSES the instant habeas action without prejudice.

The Clerk shall close the file. 15 || IT IS SO ORDERED. 16 || Dated: October 30, 2025 C [owe 17 keke a 18 Hon. Robert S. Huie 19 United States District Judge 20 21 22 23 24 25 26 27 28