

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

Levi Dale Laster, Jr. v. State of California

Laster · No. 2:25-cv-00481-DAD-SCR · Decided December 19, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge's findings and recommendations and dismissed Levi Dale Laster, Jr.'s 28 U.S.C. § 2254 petition without prejudice under the Younger abstention doctrine because his state criminal proceedings remained ongoing. The court denied the motion for release as moot, declined to issue a certificate of appealability, and directed the clerk to close the case.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 LEVI DALE LASTER, JR., No. 2:25-cv-00481-DAD-SCR 12 Petitioner, 13
v. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DISMISSING THE 14
STATE OF CALIFORNIA, OPERATIVE PETITION, AND CLOSING THIS CASE 15
Respondent. (Doc. Nos. 21, 25) 16 17 18 Petitioner Levi Dale Laster, Jr., is a current county jail
inmate being held at the Butte 19 County Jail and appearing pro se in this action with a petition of
habeas corpus pursuant to 28 20 U.S.C. § 2254.

This matter was referred to a United States Magistrate Judge pursuant to 28 21 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 22 On March 28, 2025, the assigned magistrate judge issued findings and
recommendations 23 recommending that this action be dismissed, without prejudice, on the basis
of Younger 24 abstention. (Doc. No. 25 at 4.) Specifically, the magistrate judge found that it was
apparent from 25 the face of the first amended petition that the state criminal proceedings against
petitioner were 26 ongoing when the habeas petition was filed.

(Id. at 3.) Moreover, the magistrate judge concluded 27 that petitioner had failed to establish any
irreparable injury because he had not demonstrated the 28 existence of extraordinary
circumstances that would justify this federal court not abstaining under 1 Younger. (Id.); see also
Page v. King, 932 F.3d 898, 902 (9th Cir. 2019) (holding that Younger 2 abstention was proper
where the petitioner was challenging pretrial detention because the delay in 3 trial was not an
extraordinary circumstance).

4 The pending findings and recommendations were served on petitioner and contained 5 notice
that any objections thereto were to be filed within twenty-one (21) days after service. 6 (Doc. No.
25 at 4.) Though petitioner has not filed any objections, he has filed several other 7 notices and

two further amendments to his petition since the issuance of the pending findings and 8 recommendations.

(Doc. Nos. 26, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39.) 9 A review of petitioner's additional filings does not reveal any basis upon which to reject 10 the magistrate judge's findings and recommendations. For instance, petitioner's proposed third 11 amended petition states that he is still awaiting trial and accordingly Younger abstention applies. 12 (Doc. No. 32 at 2.)

Petitioner's filings do not otherwise address the pending findings and 13 recommendations nor do they call into question the analysis therein. 14 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a 15 de novo review of the case.

Having carefully reviewed the entire file, the court finds the findings 16 and recommendations to be supported by the record and by proper analysis. 17 Having concluded that the pending petition must be denied, the court also declines to issue 18 a certificate of appealability. A petitioner seeking writ of habeas corpus has no absolute right to 19 appeal; he may appeal only in limited circumstances.

See 28 U.S.C. § 2253; *Miller-El v. 20 Cockrell*, 537 U.S. 322, 335-36 (2003). If a court denies a petitioner's petition, the court may 21 only issue a certificate of appealability when a petitioner makes a substantial showing of the 22 denial of a constitutional right. 28 U.S.C. § 2253(c)(2). If a court denies a habeas petition on the 23 merits, the court may only issue a certificate of appealability if "jurists of reason could disagree 24 with the district court's resolution of [the petitioner's] constitutional claims or that jurists could 25 conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller- 26 El*, 537 U.S. at 327; see also *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

While the petitioner 27 is not required to prove the merits of her case, she must demonstrate "something more than the 28 absence of frivolity or the existence of mere good faith on [her]... part." *Miller-El*, 537 U.S. at 1 | 338.

In the present case, the court concludes that reasonable jurists would not find the court's 2 | determination that the petition should be denied to be debatable or wrong, or that the issues 3 | presented are deserving of encouragement to proceed further. Petitioner has not made the 4 | required substantial showing of the denial of a constitutional right.

Therefore, the court will 5 | decline to issue a certificate of appealability. 6 Accordingly, 7 1. The findings and recommendations issued on March 28, 2025 (Doc. No. 25) are 8 ADOPTED in full; 9 2. The operative petition for writ of habeas corpus (Doc. No. 20) is dismissed, 10 without prejudice, on the basis that the court cannot exercise jurisdiction pursuant 11 to the Younger abstention doctrine; 12 3.

Petitioner's motion for release (Doc. No. 21) is DENIED as having been rendered moot by this order; 14 4. The court declines to issue a certificate of appealability; and 15 5. The Clerk of the Court is directed to close this case. 16 IT IS SO ORDERED. "7 Dated: _ December 19, 2025 Dak A. 2d, aryek 18 DALE A. DROZD 19 UNITED STATES DISTRICT JUDGE 20 21 22 23 24 25 26 27 28