

**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

OPINION

Levi Dale Laster, Jr. v. State of California

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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 13 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

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