

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Anthony Eugene Martinez v. Kevin McMahill, et al.

Martinez · No. 2:26-cv-00073-CDS-MDC · Decided January 20, 2026

SUMMARY

The United States District Court for the District of Nevada grants Anthony Eugene Martinez’s application to proceed in forma pauperis but dismisses his 28 U.S.C. § 2241 habeas petition without prejudice. The court concludes that Martinez failed to exhaust available state remedies and that Younger abstention applies because he seeks federal intervention in a pending state criminal proceeding. The court also denies a certificate of appealability and directs the Clerk to serve the Nevada Attorney General and close the case.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Nevada                                                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Cristina D. Silva                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | United States District Court for the District of Nevada                                                                                                                                                                                                                                                                                                                                                                               |
| DECIDED               | January 20, 2026                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DOCKET                | 2:26-cv-00073-CDS-MDC                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | A pro se pretrial detainee filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 seeking dismissal of pending Nevada criminal charges based on alleged ineffective assistance of trial counsel. The district court screened the petition, granted leave to proceed in forma pauperis, and dismissed the habeas petition without prejudice for failure to exhaust state remedies and because Younger abstention applied. |
| STANDARD OF REVIEW    | Under Habeas Rule 4, the court screens a habeas petition and may dismiss it when it plainly appears that the petitioner is not entitled to relief, including for patent procedural defects.                                                                                                                                                                                                                                           |
| PRECEDENTIAL VALUE    | Nonprecedential district court order                                                                                                                                                                                                                                                                                                                                                                                                  |
| PARTIES               | Anthony Eugene Martinez v. Kevin McMahill, et al.                                                                                                                                                                                                                                                                                                                                                                                     |

TOPICS

federal habeas corpus

habeas corpus

comity

criminal procedure

due process

## PRACTICE AREAS

Federal habeas corpus

Criminal procedure

Federal courts

Constitutional law

## QUESTIONS PRESENTED

1. Whether Martinez's § 2241 petition was subject to dismissal because he had not exhausted available state-court remedies.
2. Whether Younger abstention required the federal court to refrain from intervening in Martinez's pending Nevada criminal prosecution.
3. Whether the petition should be dismissed without prejudice and whether a certificate of appealability should issue.

## HOLDINGS

1. A federal habeas petition by a state detainee must be dismissed when the petitioner has not fairly presented each federal claim, including its operative facts and federal legal theory, through the highest available state court.
2. Federal courts must abstain from enjoining or otherwise interfering with a pending state criminal proceeding absent extraordinary circumstances creating a threat of irreparable injury.
3. The petition must be dismissed without prejudice, and a certificate of appealability should be denied when reasonable jurists would not debate the procedural grounds for dismissal.

## KEY QUOTATIONS

*“Because a federal habeas petitioner incarcerated by a state must give state courts a fair opportunity to act on each of his claims before he presents them in a federal habeas petition, federal courts will not consider his petition for habeas relief until he has properly exhausted his available state remedies for all claims raised.”*  
(Discussion, page 2)

*“The comity-based Younger abstention doctrine prevents federal courts from enjoining pending state court criminal proceedings, even if there is an allegation of a constitutional violation, unless there is an extraordinary circumstance that creates a threat of irreparable injury.”* (Discussion, page 3)

## FACTUAL BACKGROUND

Martinez was a pretrial detainee held at the Clark County Detention Center in Las Vegas, Nevada. He faced state charges for residential burglary, grand larceny, and grand larceny auto in case number C-25-393189-1. He alleged that his trial counsel was ineffective in the areas of diligence, communication, and investigation, and sought dismissal of the state charges. Although motions concerning counsel had apparently been filed in state court, he had not raised the issue with the Nevada appellate courts.

## PROCEDURAL HISTORY

Martinez was charged in Nevada state court with residential burglary, grand larceny, and grand larceny auto, with trial scheduled to begin on March 23, 2026. He filed a federal § 2241 petition alleging that trial counsel failed to act diligently, communicate, and investigate. The federal district court found that Martinez had not presented the claim to the Nevada appellate courts and that the petition sought intervention in an ongoing state criminal proceeding without extraordinary circumstances. The court dismissed the petition without prejudice, denied a certificate of appealability, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990)
- Boyd v. Thompson, 147 F.3d 1124, 1128 (9th Cir. 1998)
- O'Sullivan v. Boerckel, 526 U.S. 838, 844-45 (1999)
- Peterson v. Lampert, 319 F.3d 1153, 1158 (9th Cir. 2003) (en banc)
- Woods v. Sinclair, 764 F.3d 1109, 1129 (9th Cir. 2014)
- Castillo v. McFadden, 399 F.3d 993, 999 (9th Cir. 2005)
- Picard v. Connor, 404 U.S. 270, 276 (1971)
- Bland v. California Department of Corrections, 20 F.3d 1469, 1473 (9th Cir. 1994)
- Coleman v. Thompson, 501 U.S. 722, 731 (1991)
- Younger v. Harris, 401 U.S. 37, 53-54 (1971)
- Sprint Communications, Inc. v. Jacobs, 571 U.S. 69, 72 (2013)
- Gilbertson v. Albright, 381 F.3d 965 (9th Cir. 2004)

OPINION

Martinez

PER CURIAM.

1

2 UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

3 4 Anthony Eugene Martinez, Case No. 2:26-cv-00073-CDS-MDC 5 Petitioner Dismissal Order  
6 v. [ECF Nos. 1, 1-1] 7 Kevin McMahon, et al., 8 Respondents 9 10 Pro se petitioner Anthony  
Eugene Martinez has filed a petition for writ of habeas corpus 11 under 28 U.S.C. § 2241 and an  
application for leave to proceed in forma pauperis (“IFP”). ECF Nos. 1 12 (“IFP application”), 1-1  
13 (“petition”). I find good cause exists to grant Martinez’s IFP Application. 13 However, following a  
review of the petition under the Rules Governing Section 2254 Cases 14 (“Habeas Rules”),1 I find  
that the petition is unexhausted and federal abstention is required. 15 II. Discussion 16 Martinez is

a pretrial detainee in custody at the Clark County Detention Center in Las Vegas, Nevada. ECF No. 1-1 at 1. Martinez has been charged with residential burglary, grand larceny, and grand larceny auto in case number C-25-393189-1 before the Eighth Judicial District Court of Nevada.<sup>2</sup> It appears that Martinez's trial is set to commence on March 23, 2026. In his petition, Martinez alleges that his trial counsel has been ineffective regarding his duties of diligence, communication, and investigation. ECF No. 1-1. Martinez requests that this Court dismiss his state charges due to this violation of his due process rights. *Id.* at 7. I exercise my discretion to apply the rules governing § 2254 petitions to this § 2241 action. See Habeas Rule 1(b).

I take judicial notice of the online docket records of the Eighth Judicial District Court, accessible at <https://www.clarkcountycourts.us/portal>. Habeas Rule 4 requires federal district courts to examine a habeas petition and order a response unless it "plainly appears" that the petitioner is not entitled to relief. This rule allows courts to screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by procedural defects. See *Valdez v. Montgomery*, 918 F.3d 687, 693 (9th

5 Cir. 2019); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases). Because a federal habeas petitioner incarcerated by a state must give state courts a fair opportunity to act on each of his claims before he presents them in a federal habeas petition, federal courts will not consider his petition for habeas relief until he has properly exhausted his available state remedies for all claims raised. See *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998). A claim remains unexhausted until the petitioner has given the highest available state court the opportunity to consider the claim through direct appeal or state collateral-review proceedings. *O'Sullivan v. Boerckel*, 526 U.S. 838, 844–45 (1999); *Peterson v. Lampert*, 319 F.3d 1153, 1158 (9th Cir. 2003) (en banc). The federal constitutional implications of a claim, not just issues of state law, must have been raised in the state court to achieve exhaustion. *Woods v. Sinclair*, 764 F.3d 1109, 1129 (9th Cir. 15 2014); *Castillo v. McFadden*, 399 F.3d 993, 999 (9th Cir. 2005) (fair presentation requires both the operative facts and federal legal theory upon which a claim is based). Although it appears that numerous motions to dismiss counsel have been filed in the state court, Martinez has not raised this issue with the Nevada appellate courts.<sup>3</sup> As such, Martinez has not demonstrated that he has fully exhausted his state court remedies. See *Picard v. Connor*, 404 U.S. 270, 276 (1971) (holding that to properly exhaust state remedies on each claim, the habeas petitioner must "present the state courts with the same claim he urges upon the federal court"); *Bland v. California Dep't of Corrections*, 20 F.3d 1469, 1473 (9th Cir. 1994) (holding that a claim is not exhausted unless the petitioner has presented to the state court the same operative facts and legal theory upon which his federal claim is based). As a matter of simple comity, this I also take judicial notice of the online docket records of the Nevada appellate courts, accessible at <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>. Court is not inclined to intervene prior to giving the Nevada courts an opportunity to redress any violation of Martinez's

constitutional rights. See *Coleman v. Thompson*, 501 U.S. 722, 731 (1991) 3 (explaining that the exhaustion requirement is “grounded in principles of comity; in a federal 4 system, the States should have the first opportunity to address and correct alleged violations of 5 state prisoner’s federal rights”). 6 Further, Martinez seeks federal judicial intervention in a pending state criminal 7 proceeding, which is simply not available to him. The comity-based *Younger* abstention doctrine 8 prevents federal courts from enjoining pending state court criminal proceedings, even if there is 9 an allegation of a constitutional violation, unless there is an extraordinary circumstance that 10 creates a threat of irreparable injury. *Younger v. Harris*, 401 U.S. 37, 53–54 (1971). The United States 11 Supreme Court has instructed that “federal-court abstention is required” when there is “a parallel, 12 pending state criminal proceeding.” *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 72 (2013) (emphasis 13 added); *Gilbertson v. Albright*, 381 F.3d 965 (9th Cir. 2004) (federal courts generally abstain from 14 granting any relief that would interfere with pending state judicial proceedings). This case does 15 not present extraordinary circumstances. Defendants in state criminal proceedings routinely 16 allege that state criminal proceedings violate their constitutional rights, including fundamental 17 rights, which makes this a regular occurrence, not an extraordinary circumstance. Martinez’s 18 situation is no different in substance from that of any criminal defendant facing the potential loss 19 of constitutional rights—including the most fundamental right to liberty—in a pending criminal 20 prosecution. Because Martinez faces no extraordinary or irreparable injuries, federal abstention is 21 required. 22 Given the unexhausted nature of Martinez’s petition and Martinez’s failure to 23 demonstrate that federal abstention should be set aside, I dismiss the petition without prejudice. 24 25 26 TIL. Conclusion 2 It is therefore ordered that the IFP application [ECF No. I] is granted. 3 It is further ordered that the petition [ECF No. 1-1] is dismissed without prejudice. 4 || Martinez is denied a certificate of appealability, as jurists of reason would not find dismissal of 5 ||the Petition for the reasons stated herein to be debatable or wrong. 6 It is further kindly ordered that the Clerk of Court (1) file the petition (ECF No. 1-1), (2) 7 ||add Nevada Attorney General Aaron D. Ford as counsel for the respondents,’ (3) informally serve 8 ||the Nevada Attorney General with the petition (ECF No. 1-1), this order, and all other filings in Q||this matter by sending a notice of electronic filing to the Nevada Attorney General’s office, (4) 10 final judgment, and (5) close this case. ‘) ul Dated: January 20, 2026 / , / B Criscin Silva Un tl States District Judge 14 [ , 15 16 17 18 19 20 21 22 23 24 25 26 + No response is required from the respondents other than to respond to any orders of a reviewing court.