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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Rafael Mada-Lastra,

No. CV 15-0734-PHX-DGC (ESW)

10 Petitioner,

11 vs.

ORDER

12 Maricopa County Sheriff's Office,

13 Respondent.
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15 Petitioner Rafael Mada-Lastra, who is confined in the Maricopa County Fourth
16 Avenue Jail, filed a *pro se* "Petition for Writ of Mandamus," which the Court construed
17 as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. In a May 18, 2015
18 Order, the Court directed Petitioner to pay the filing fee or file an Application to Proceed
19 *In Forma Pauperis* and dismissed the Petition with leave to amend.

20 On June 8, 2015, Petitioner filed an Amended Petition (Doc. 5) and an unsigned
21 Application for Leave to Proceed *In Forma Pauperis*. On June 25, 2015, Petitioner filed
22 a "Motion for Verification" in which he asked the Court to verify that it received his
23 Amended Petition and Application to Proceed. In a July 21, 2015 Order, the Court
24 granted the Motion for Verification and denied the Application to Proceed with leave to
25 refile.

26 On July 31, 2015, Petitioner filed a new Application to Proceed *In Forma*
27 *Pauperis* (Doc. 9). On August 24, 2015, Petitioner filed two Motions for "Final
28 Disclosure of All Untried Charges (Docs. 11 and 12). On August 31, 2015, Petitioner

1 filed a “Request for Final Disposition of All Charges” (Doc. 13), which appears to seek
2 the same relief as the August 24 Motions.

3 The Court will dismiss the Amended Petition without prejudice and deny the
4 pending Motions as moot.

5 **I. Application to Proceed *In Forma Pauperis***

6 Petitioner’s July 31 Application to Proceed *In Forma Pauperis* indicates that his
7 inmate trust account balance is less than \$25.00. Accordingly, the Application to Proceed
8 *In Forma Pauperis* will be granted. See LRCiv 3.5(b).

9 **II. Relief Unavailable under 28 U.S.C. § 2241 – Failure to Exhaust State
10 Remedies**

11 Petitioner challenges his ongoing criminal proceedings in Maricopa County
12 Superior Court, case # CR 2015-002065-002. Section 2241, 28 U.S.C., provides an
13 avenue for habeas corpus relief for a pretrial detainee in custody in violation of the
14 Constitution or laws and treaties of the United States. “As an exercise of judicial
15 restraint, however, federal courts elect not to entertain habeas corpus challenges to state
16 court proceedings until habeas petitioners have exhausted state avenues for raising [a]
17 federal claim.” *Carden v. Montana*, 626 F.2d 82, 83 (9th Cir. 1980). Petitioner has not
18 exhausted his state remedies before bringing this habeas corpus action.

19 **III. Younger Abstention**

20 The abstention doctrine set forth in *Younger v. Harris*, 401 U.S. 37 (1971),
21 prevents a federal court in most circumstances from directly interfering with ongoing
22 criminal proceedings in state court. Absent special circumstances, such as “proven
23 harassment or prosecutions undertaken by state officials in bad faith without hope of
24 obtaining a valid conviction and perhaps in other extraordinary circumstances where
25 irreparable injury can be shown,” a federal court will not entertain a pretrial habeas
26 corpus petition. *Carden*, 626 F.2d at 84 (quoting *Perez v. Ledesma*, 401 U.S. 82, 85
27 (1971)). “[O]nly in the most unusual circumstances is a defendant entitled to have
28 federal interposition by way of injunction or habeas corpus until after the jury comes in,

1 judgment has been appealed from and the case concluded in the state courts.” *Id.* at 83-
2 84 (quoting *Drury v. Cox*, 457 F.2d 764, 764-65 (9th Cir. 1972)).

3 Petitioner has failed to show special or extraordinary circumstances indicating that
4 he will suffer irreparable harm if this Court abstains from hearing his claims until after he
5 has a chance to present his claims to the state courts. *See Younger*, 401 U.S. at 45-46;
6 *Carden*, 626 F.2d at 83-84. This Court, therefore, will abstain from interfering in
7 Petitioner’s ongoing state-court criminal proceedings.

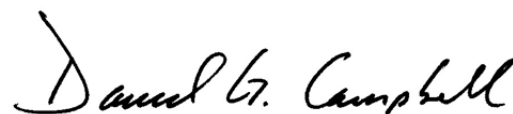
8 **IV. Dismissal Without Prejudice**

9 The Court will dismiss this action without prejudice. Petitioner may file another
10 petition in a new habeas corpus action after all state criminal proceedings are completed
11 and available state judicial remedies are exhausted. *See Swoopes v. Sublett*, 196 F.3d
12 1008, 1010 (9th Cir. 1999) (“[E]xcept in habeas petitions in life-sentence or capital cases,
13 claims of Arizona state prisoners are exhausted for purposes of federal habeas once the
14 Arizona Court of Appeals has ruled on them.”).

15 **IT IS ORDERED:**

- 16 (1) Petitioner’s Application to Proceed *In Forma Pauperis* (Doc. 9) is **granted**.
17 (2) Petitioner’s Amended Petition for Habeas Corpus (Doc. 5) and this case are
18 **dismissed without prejudice**.
19 (3) Petitioner’s pending Motions (Docs. 11, 12, and 13) are **denied** as moot.
20 (4) The Clerk of Court must enter judgment accordingly and close this case.

21 Dated this 18th day of September, 2015.

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26 David G. Campbell
27 United States District Judge
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