

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

AFSHIN BAHRAMPOUR,

Petitioner,

v.

SHERIFF JOSEPH LOMBARDO, et al.,

Respondents.

Case No. 2:20-cv-00857-RFB-EJY

ORDER

This is a pre-trial habeas corpus action under 28 U.S.C. § 2241. Petitioner, Afshin Bahrapour, has submitted an application to proceed in forma pauperis and a petition for a writ of habeas corpus. ECF No. 1. After reviewing Plaintiff's application, the Court finds Bahrapour is unable to pay the \$5.00 filing fee, and thus may proceed in forma pauperis. The also court has reviewed the petition and Bahrapour will need to show cause why the Court should not dismiss the action.

Bahrapour is the defendant in State v. Bahrapour, Case No. C-19-342022-1 of the Eighth Judicial District Court of the State of Nevada.¹ He currently is charged with one count of acts of terrorism or attempted acts of terrorism, one count of burglary motivated by bias or hatred toward the victim, one count of first-degree arson motivated by bias or hatred toward the victim,

¹ <https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=11974877> (report generated October 9, 2020).

1 one count of damage to property used for religious purposes, and three counts of third-degree
2 arson motivated by bias or hatred toward the victim. Bahrapour filed a pre-trial habeas corpus
3 petition in the state district court, and that court dismissed two other charges, one count of third-
4 degree arson and one count of fourth-degree arson.

5 The current federal habeas corpus petition under 28 U.S.C. § 2241 has numerous claims.
6 In claim 1, Bahrapour alleges that his pre-trial detention is unconstitutionally indefinite because
7 the state courts are incapable of handling criminal trials during the COVID-19 pandemic. In
8 claim 2, Bahrapour alleges that the legislative history of Nev. Rev. Stat. § 202.445, defining
9 acts of terrorism, does not include acts that do not involve despicable or inhuman conduct or
10 weapons of mass destruction. Claim 3 alleges ineffective assistance of counsel. Claims 4, 5, and
11 6 allege that Nev. Rev. Stat. § 202.445 is void for vagueness. Claim 7 alleges that insufficient
12 evidence justifies a charge of first-degree arson. Claim 8 appears to be a claim that Bahrapour
13 should not be guilty of arson for the burning or damage of cars adjacent to the car that
14 Bahrapour burned because the firefighters damaged those cars when they put out the fire that
15 Bahrapour ignited. Claim 13 alleges that counsel failed to object to Bahrapour's involuntary
16 statements that the prosecution introduced to the grand jury through witness testimony.

17 Federal courts should abstain from intervening in pending state criminal proceedings
18 unless there are the extraordinary circumstances of a great and immediate danger of irreparable
19 harm. Younger v. Harris, 401 U.S. 37, 45-46 (1971); see also Ex Parte Royall, 117 U.S. 241, 251
20 (1886). A court "must abstain under Younger if four requirements are met: (1) a state-initiated
21 proceeding is ongoing; (2) the proceeding implicates important state interests; (3) the federal
22 plaintiff is not barred from litigating federal constitutional issues in the state proceeding; and (4)
23 the federal court action would enjoin the proceeding or have the practical effect of doing so, i.e.,
24 would interfere with the state proceeding in a way that Younger disapproves." San Jose Silicon
25 Valley Chamber of Commerce Political Action Committee v. City of San Jose, 546 F.3d 1087,
26 1092 (9th Cir. 2008).

27 Based on the four Younger requirements, it appears this Court must abstain from
28 intervening in this pending state criminal proceeding. Here, Bahrapour's criminal proceedings

1 are ongoing in state court and the prosecution of those crimes is an important state interest. See
2 Kelly v. Robinson, 479 U.S. 36, 49 (1986); Rose v. Mitchell, 443 U.S. 545, 585 (1979); Younger,
3 401 U.S. at 43-44. Bahrapour may raise his constitutional claims in the state courts, by motions
4 before the trial court, on appeal, or in a post-conviction habeas corpus petition. Yet, it appears
5 that Bahrapour has not raised his trial-delay claim in any motion or petition in the state courts,
6 because his pre-trial habeas corpus petition concluded before the start of the COVID-19
7 pandemic. Lastly, if this court granted Bahrapour relief, it would result in the termination of his
8 state-court criminal action, which is an action that Younger disapproves. Because all four
9 requirements are met, it appears that this Court must abstain from considering the petition.

10 Also, in claims 9 through 12 Bahrapour alleges that the federal government is using
11 remote mind-control techniques on him. These claims are plainly without merit, and the Court
12 dismisses them under Rule 4 of the Rules Governing Section 2254 Cases in the United States
13 District Courts.

14 IT THEREFORE IS ORDERED that the application to proceed in forma pauperis (ECF
15 No. 1) is **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

16 IT FURTHER IS ORDERED that the Clerk of the Court shall file the petition for a writ of
17 habeas corpus pursuant to 28 U.S.C. § 2254.

18 IT FURTHER IS ORDERED that claims 9, 10, 11, and 12 are **DISMISSED** because they
19 lack merit.

20 IT FURTHER IS ORDERED that petitioner will have 30 days from the date of entry of
21 this order to show cause why the court should not dismiss this action to abstain from interfering in
22 ongoing criminal proceedings in the state courts. Failure to comply with this order will result in
23 the dismissal of this action.

24 DATED: October 16, 2020



25
26 RICHARD F. BOULWARE, II
United States District Judge