

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JULIUS BRADFORD,

Case No. 2:21-cv-00025-KJD-DJA

Petitioner,

v.

ORDER

CALVIN JOHNSON, et al.,

Respondents.

Petitioner Julius Bradford has submitted a document captioned as a petition for a writ of habeas corpus. ECF No. 1-1. Bradford is currently awaiting re- trial in Clark County, Nevada, after his prior conviction for first degree murder with use of a deadly weapon was reversed on appeal. Claiming the state proceeding violates his constitutional rights, he seeks habeas relief in this court.

As a general matter, a federal court will not entertain a habeas petition seeking intervention in a pending state criminal proceeding, absent special circumstances. See, e.g., *Sherwood v. Tomkins*, 716 F.2d 632, 634 (9th Cir. 1983); *Carden v. Montana*, 626 F.2d 82, 83 85 (9th Cir. 1980); *Davidson v. Klinger*, 411 F.2d 746 (9th Cir. 1969). This rule of restraint ultimately is grounded in principles of comity that flow from the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971). Under the *Younger*

1 abstention doctrine, federal courts may not interfere with pending state criminal
2 proceedings absent extraordinary circumstances.

3 The more immediate problem, however, is that Bradford did not file an
4 application to proceed *in forma pauperis*, nor did he pay the filing fee of five dollars
5 (\$5.00). In addition, his petition is entirely hand-written rather than being submitted on a
6 court-approved form. See Local Rule, LSR 3-1 (requiring habeas petitioners to file their
7 petitions on the court's approved form). Accordingly, this matter has not been properly
8 commenced.

9 Thus, the present action will be dismissed without prejudice to the filing of a
10 habeas petition pursuant to 28 U.S.C. § 2241 or § 2254 in a **new** action with either the
11 \$5.00 filing fee or a completed application to proceed *in forma pauperis* on the proper
12 form with both an inmate account statement for the past six months and a properly
13 executed financial certificate.

14 IT IS THEREFORE ORDERED that this action is dismissed without prejudice to
15 the filing of a petition in a **new** action with either the \$5.00 filing fee or a properly
16 completed application form to proceed *in forma pauperis*.

17 IT IS FURTHER ORDERED that a certificate of appealability is denied, as jurists
18 of reason would not find the court's dismissal of this improperly commenced action
19 without prejudice to be debatable or incorrect.

20 IT IS FURTHER ORDERED that the Clerk shall send petitioner two copies each
21 of an application form to proceed *in forma pauperis* for incarcerated persons, a Section
22 2241 form, and a noncapital Section 2254 habeas petition form (with a copy of the
23 instructions for each form); and a copy of the papers that he submitted in this action.

1 IT IS FURTHER ORDERED that the Clerk shall enter judgment accordingly and
2 close this case.

3 DATED THIS 8 day of January, 2021.

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KENT J. DAWSON
UNITED STATES DISTRICT JUDGE