FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 07, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RAYMOND WETMORE-TINNEY,
Petitioner,
v.

SUPERIOR COURT, JOHN DOE, JANE DOE, SPOKANE PROSECUTORS' OFFICE, SPOKANE COUNTY JAIL and JAIL COMMANDER BARBER,
Respondents.

No. 2:21-CV-00195-SAB

ORDER DISMISSING ACTION WITHOUT PREJUDICE

Before the Court is Petitioner's Response to the Order to show cause why this action should not be dismissed. ECF No. 11. Petitioner, a pre-trial detainee at Spokane County Detention Services, is proceeding *pro se* and *in forma pauperis;* Respondents have not been served.

By Order filed July 30, 2021, the Court found that federal intervention in Petitioner's pending state court criminal proceedings was not warranted under *Younger v. Harris,* 401 U.S. 37, 41 (1971). ECF No. 10. Petitioner had initiated this action with a Petition for Writ of Mandamus. ECF No. 1. He now acknowledges that a Habeas Corpus Petition pursuant to 28 U.S.C. § 2241 is the appropriate vehicle to challenge pre-trial confinement.

Nevertheless, Petitioner has presented no facts from which this Court could infer that federal habeas relief is warranted at this time. Petitioner asserts, "There is a clear absence of a[n] adequate, effective state remedy, which would cause extraordinary harm/irreparable harm." ECF No. 11 at 2. He then describes the health of his mother and his efforts to "help keep her out of a nursing home." *Id.*

Petitioner claims that "the state is using false fta's [presumably accusations that Petitioner failed to appear at hearings] and false charges to keep him incarcerated in jail at the time of issuance." *Id.* Petitioner presents no factual support for his assertions, arguing only that he is being "deni[ed] his presumtion [sic] of innocence" and his "8th Amend, and Due process and Equal Protection of laws" are being violated. *Id.* He requests discovery. *Id.*

Although Petitioner avers that "due process and bail claims are immediately reviewable in federal court," *id.* at 3-4, he offers no facts from which the Court could infer that he has been denied due process or subjected to excessive bail without a constitutional hearing. Furthermore, Petitioner argues that *Younger* abstention is not applicable to his case, but he does not support his argument with any facts. *Id.* at 5.

Petitioner claims that he is entitled to the relief he seeks "because he is innocent of these false new charges and never found guilty and never comitted [sic] a crime as Exhibit 1 page 2 at 4 states." *Id.* Petitioner's unsupported, self-serving declarations provide no basis for this Court to intervene in his state court criminal proceedings.

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Therefore, for the reasons set forth above and in the Order to Show Cause, ECF No. 10, **IT IS HEREBY ORDERED:**

1. This action is **DISMISSED without prejudice** to Petitioner seeking appropriate relief in his state court criminal proceedings.

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order, enter judgment, provide copies to Petitioner, and **close** the file. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability is therefore **DENIED**.

Stanley A. Bastian
Chief United States District Judge