D. Conn.
16-cv-1720
Thompson, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 26th day of March, two thousand eighteen.

Present:

Robert D. Sack,
Peter W. Hall,
Christopher F. Droney,
Circuit Judges.

Michael A. Young,

Petitioner-Appellant,

v. 17-4037

Carol Chapdelaine, Warden,

Respondent-Appellee.

Appellant, pro se, moves for a certificate of appealability, in forma pauperis status, and other relief. Upon due consideration, it is hereby ORDERED that decision on the motions is DEFERRED.

The district court's order was entered on November 8, 2017, giving Appellant until December 8, 2017 to file a timely notice of appeal. Fed. R. App. P. 4(a)(1). Appellant's notice of appeal was not received by the district court until December 13. In a subsequent submission, Appellant asserted that he gave the notice of appeal to prison officials on December 6. If Appellant in fact submitted his notice of appeal to prison officials on that date, it would be timely. *See Houston v. Lack*, 487 U.S. 266, 268 (1988); Fed. R. App. P. 4(c). However, Appellant has not provided any proof that he delivered the notice of appeal to prison officials on December 6, 2017.

Accordingly, Appellant is directed, within 30 days of this order, to provide a "a declaration in compliance with 28 U.S.C. § 1746--or a notarized statement," or other evidence supporting his unsworn assertion that he gave his notice of appeal to prison officials for filing on December 6, 2017. Fed. R. App. P. 4(c)(1)(A).

Further, the Connecticut Office of the Attorney General is ORDERED to submit any evidence that bears on this issue, such as a log entry or other record of when Appellant gave prison officials the notice of appeal.

After 30 days have elapsed, the motions will be decided by a new panel in the ordinary course.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

D. Conn.
16-cv-1798
Thompson, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21st day of June, two thousand eighteen.

Present:

Pierre N. Leval,
Guido Calabresi,
Debra Ann Livingston,
Circuit Judges.

Michael A. Young,

Petitioner-Appellant,

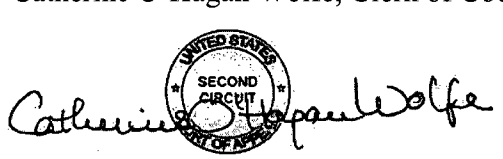
v. 17-4040

Carol Chapdelaine, Warden,

Respondent-Appellee.

Appellant, pro se, moves for a certificate of appealability, leave to proceed in forma pauperis, appointment of counsel, and release from prison. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal is DISMISSED because Appellant has failed to show that "(1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion, and (2) jurists of reason would find it debatable whether the underlying habeas petition, in light of the grounds alleged to support the [Rule] 60(b) motion, states a valid claim of the denial of a constitutional right." *Kellogg v. Strack*, 269 F.3d 100, 104 (2d Cir. 2001) (per curiam).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court



D. Conn.
16-cv-1744
Thompson, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21st day of June, two thousand eighteen.

Present:

Pierre N. Leval,
Guido Calabresi,
Debra Ann Livingston,
Circuit Judges.

Michael A. Young,

Petitioner-Appellant,

v. 17-4044

Carol Chapdelaine, Warden, et al.,

Respondents-Appellees.

Appellant, pro se, moves for a certificate of appealability, leave to proceed in forma pauperis, appointment of counsel, and release from prison. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal is DISMISSED because Appellant has failed to show that "(1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion, and (2) jurists of reason would find it debatable whether the underlying habeas petition, in light of the grounds alleged to support the [Rule] 60(b) motion, states a valid claim of the denial of a constitutional right." *Kellogg v. Strack*, 269 F.3d 100, 104 (2d Cir. 2001) (per curiam).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of August, two thousand eighteen.

Michael A. Young,

Petitioner - Appellant,

v.

Carol Chapdelaine, Warden,

Respondent - Appellee.

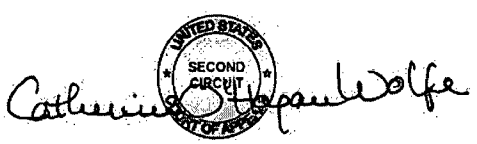
ORDER

Docket No: 17-4037

Appellant, Michael A. Young, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request as a motion for reconsideration, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the motion and petition are denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of August, two thousand eighteen.

Michael A. Young,

Petitioner - Appellant,

v.

Carol Chapdelaine, Warden,

Respondent - Appellee.

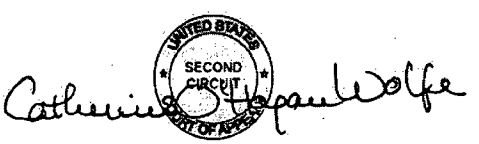
ORDER

Docket No: 17-4040

Appellant, Michael A. Young, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request as a motion for reconsideration, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the motion and petition are denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 16th day of August, two thousand eighteen,

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Michael A. Young,

Petitioner - Appellant,

v.

Carol Chapdelaine, Warden, State of Connecticut Attorney General,

Respondents - Appellees.

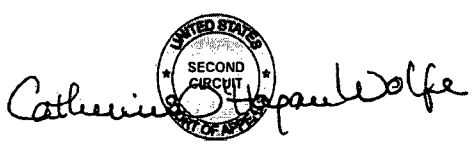
ORDER

Docket No: 17-4044

Appellant, Michael A. Young, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request as a motion for reconsideration, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the motion and petition are denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

MICHAEL A. YOUNG, Petitioner,	:	
v.	:	Case No. 3:16cv1720(AWT)
WARDEN CHAPDELAINE, Respondent.	:	

RULING AND ORDER

The petitioner, Michael A. Young, is currently confined at the MacDougall-Walker Correctional Institution in Suffield, Connecticut ("MacDougall-Walker"). He filed this action pro se for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his April 17, 2014 convictions for interfering with a police officer in violation of Conn. Gen. Stat. § 53a-167a, assault on a police officer in violation of Conn. Gen. Stat. § 53a-181a(1), and committing a crime while on release in violation of Conn. Gen. Stat. § 53a-40b.

At the time that he filed this action in October 2016, Young had previously filed a habeas corpus action in this court challenging the same conviction and sentence. See Young v. Chapdelaine, No. 3:15cv1821(AWT) (D. Conn. Dec. 15, 2015). On February 3, 2016, the court dismissed the prior habeas petition

for failure to exhaust state court remedies before filing a federal habeas action. See id. (Order Dismissing Pet. Writ Habeas Corpus, ECF No. 13). The petitioner appealed the dismissal of the petition. On September 27, 2016, the Second Circuit dismissed the appeal by Mandate. See id., (Mandate, Case No. 16-1396, ECF No. 41).

The habeas petition filed in this action is a copy of the petition filed in the previous habeas action, Young v. Chapdelaine, No. 3:15cv1821(AWT). After reviewing the petition, the court concluded that the petitioner had failed to indicate that he had made further efforts to exhaust his state court remedies with respect to any of the grounds in the petition. Thus, on February 22, 2017, the court dismissed the petition without prejudice for the reasons stated in the ruling dismissing the petition filed in Young v. Chapdelaine, No. 3:15cv1821(AWT). See Ruling and Order, ECF No. 14. The court informed the petitioner that he could challenge his conviction in federal court only after he had exhausted his state court remedies by properly presenting his claims to the Connecticut courts. See id. at 2. The Clerk entered judgment dismissing the case without prejudice on March 10, 2017. See Judgment, ECF No. 17.

The petitioner appealed the dismissal of the petition. See ECF No. 15. On June 23, 2017, the Second Circuit issued a Mandate denying the petitioner's motion for a certificate of appealability and for release from prison and dismissed the appeal because the petitioner had not "made a substantial showing of the denial of a constitutional right." See Mandate, Case No. 17-576, ECF No. 18 (internal quotation marks and citations omitted).

The petitioner has filed two motions to reopen and to consolidate and a third motion to reopen, to consolidate, to change judge, for release from confinement and to appoint counsel. For the reasons set forth below, the motions are being denied in all respects.

I. Motions to Reopen and Consolidate [ECF Nos. 19, 20]

Both motions consist of a cover page that includes a description of the type of relief sought and references to state court trial transcripts. Attached to the first motion are copies of state court transcripts related to a pre-trial proceeding held in State v. Young, T19R-MV13-370188, a pre-trial proceeding and the plea and sentencing hearing held in State v. Young, T19R-MV13-0370552-S, and jury selection held in State v. Young, No. T19R-CR11-0099206-S. Attached to the second motion

are state court transcripts relating to pre-trial proceedings and the disposition of pre-trial motions, jury selection, sentencing and post-trial motions in connection with the petitioner's trial in State v. Young, No. T19R-CR11-0099206-S.

Other than describing the motions as seeking to reopen and consolidate, there are no facts in support of either motion. It is unclear how the state court trial transcripts attached to the motions are related to the requests to consolidate and reopen. Thus, the petitioner has failed to set forth any basis on which to reopen this case or to consolidate it with two other habeas cases that are currently closed, Young v. Chapdelaine, Civil No. 3:16cv1744(AWT), and Young v Chapdelaine, Civil No. 3:16cv1798(AWT). Accordingly, the first and second motions to reopen and consolidate are being denied.

II. Motion Seeking Miscellaneous Relief [ECF No. 21]

The petitioner seeks not only to reopen and consolidate this case with two other cases, but also seeks to "change judge with order of release and appointment of counsel." See Mot., ECF No. 20 at 1. Attached to the motion are various exhibits related to the petitioner's state criminal case, State v. Young, No. T19R-CR11-0099206-S, as well as the appeal of the conviction and sentence imposed by a state court judge in that case and

post-sentencing motions filed by the petitioner in connection with that conviction and sentence. See id., Exs., ECF No. 20-1. For the reasons set forth below, the motion is being denied in all respects.

A. Request to Consolidate

The petitioner again seeks to consolidate this case with two other habeas matters filed in this court that are closed, Young v. Chapdelaine, Civil No. 3:16cv1744(AWT), and Young v Chapdelaine, Civil No. 3:16cv1798(AWT). The petitioner has set forth no basis on which to consolidate this case with the two other closed habeas petitions filed by him. Accordingly, the motion is being denied to the extent that it seeks to consolidate this case with two other closed cases filed by the petitioner.

B. Request to Reopen

The petitioner seeks to reopen the case due to extraordinary circumstances. As a preliminary matter, the court notes that the dismissal of this action was without prejudice to re-filing a new habeas petition after the petitioner had exhausted his available state court remedies as to the conviction he sought to challenge. Because the court determined that none of the grounds for relief had been exhausted, there

was no basis to stay the action while the petitioner exhausted his available remedies as to the grounds for relief. Thus, the court did not stay this action or dismiss it without prejudice to reopening after the exhaustion of state court remedies.

In support of his request to reopen the case, the petitioner claims that the state court process has been inordinately delayed and is futile. Thus, he contends that he should not be required to exhaust his state court remedies with respect to the grounds in his petition.

He makes reference to trial dates in a state habeas petition having been postponed from September 6, 2017 to September 25, 2017 and then to October 16, 2017. He claims that the October 16, 2017 trial date has also been postponed. The petitioner does not refer to the case number of his Connecticut habeas petition. The petition filed in this action, however, includes a reference to a docket number assigned to a habeas petition filed by the petitioner in state court in 2014, Young v. Warden, CV14-4006214-S. See Pet. Writ Habeas Corpus, ECF No. 1 at 11, 13, 15, 18.

The Supreme Court has cautioned that an exception to the exhaustion requirement is appropriate only where there is no opportunity to obtain redress in state court or where the state

corrective procedure is so clearly deficient that any attempt to obtain relief is rendered futile. See Duckworth v. Serrano, 454 U.S. 1, 3 (1981) (per curiam). The Second Circuit has recognized that a long delays in the state criminal appeal process may constitute a basis to excuse the exhaustion requirement. See Roberites v Colly, 546 F. App'x 17, 20-21 (2d Cir. 2013) (over three-year delay in perfecting direct appeal was excessive); Muwwakkil v. Hoke, 968 F.2d 284, 285 (2d Cir. 1992) (thirteen-year delay); Mathis v. Hood, 937 F.2d 790 (2d Cir. 1991) (six-year delay); Diaz v. Henderson, 905 F.2d 652 (2d Cir. 1990) (seven-year delay); Simmons v. Reynolds, 898 F.2d 865 (2d Cir. 1990) (six-year delay).

In determining whether the petitioner has been deprived of due process because of delay, courts consider the factors set forth in Barker v. Wingo, 407 U.S. 514 (1972). Those factors include the length of the delay, the reason for the delay, whether the petitioner asserted his rights, and whether the petitioner will suffer any prejudice as a result of the delay. See id. at 530. "In determining whether a delay of a prisoner's appeal violates due process . . . no one factor is dispositive and all are considered together with the relevant circumstances." Simmons, 898 F.2d at 868. A federal court may

also consider the interests of federal-state comity in determining whether undue delay should excuse a petitioner's failure to exhaust his state court remedies. See Brooks v. Jones, 875 F.2d 30, 32 (2d Cir. 1989).

Here, the petitioner complains about the delay in the State of Connecticut's habeas or collateral review process. The docket of the petitioner's state habeas petition, Young v. Warden, State Prison, TSR-CV14-4006214-S, reflects that the petitioner initiated the action on May 7, 2014, and filed a substituted petition on April 10, 2017.[1] See id., Dkt. Entries 101.00, 123.00. The respondent filed a response to the substituted petition on June 29, 2017. See id., Dkt. Entry 144.00. The petitioner filed an appeal to the Connecticut Appellate Court on August 30, 2017. See id., Dkt. Entry 150.50. The docket does not reflect a ruling or decision on the substituted petition. Thus, it is apparent that the appeal is an interlocutory one.

Although the petitioner's state habeas petition has been pending since May 2014, it is unclear who might be responsible

[1] Current information regarding Young v. Warden, State Prison may be found at: http://www.jud.ct.gov/jud2/htm under Civil/Family/Housing Case Look-up, By Docket Number and using Docket Number TSR-CV14-4006214-S.

for the delay in scheduling the matter for a hearing or trial. The docket reflects that the court entered a scheduling order and issued a certificate of closed pleadings and claim for trial list in April 2015. See id., Dkt. Entries 104.00, 105.00. There are no docket entries, however, indicating that the petitioner claimed the case for trial.

In addition, three-years after commencing the action, the petitioner filed a substituted petition. The petitioner also filed several motions for immediate hearings in May 2017, but then in August 2017, he filed an interlocutory appeal with the Connecticut Appellate Court. See id., Dkt. Entries 131.00, 135.00, 137.00, 150.50. The appeal remains pending. See Young v. Commissioner of Correction, AC 40801 (Conn. App. Ct. Aug. 30, 2017).[2]

The petitioner claims that the state court judge has scheduled the habeas matter for trial on two dates in September and one date this month, but the trial has been postponed each time. It is not clear whether the trial judge has jurisdiction to decide the substituted habeas petition while the case is on

[2] Current information regarding the appeal filed by the petitioner from his state habeas petition may be found at: http://www.jud.ct.gov/jud2/htm under Supreme and Appellate Court Case Look-up, By Docket Number, Appellate Court and Docket

appeal. The court does not consider the approximately three and one-half year delay since the filing of the state petition to be excessive or to have rendered the state judicial process ineffective. See Taylor v. Lantz, No. 3:03CV2132 (DJS), 2006 WL 798930, at *2 (D. Conn. Mar. 29, 2006) ("court cannot conclude that the five and one-half year delay in the petitioner's state habeas corpus action is unreasonable or that pursuit of the petition for writ of habeas corpus in state court is necessarily futile"); Channer v. Brooks, No. 399CV2564(CFD), 2001 WL 1094964, at *3 (D. Conn. Sept. 10, 2001) (concluding petitioner not excused from exhausting state court remedies because "[a] three-year delay in the petitioner's state habeas corpus action is not unreasonable, and, at this point, pursuit of the petition for a writ of habeas corpus in the state court is not futile").

Given that the petitioner filed a substituted petition during the pendency of habeas matter and that he has recently filed an interlocutory appeal that remains pending, at least part of the delay may be attributed to the petitioner's actions. Nor has the petitioner alleged that he will be prejudiced by the delay in ruling on his state habeas petition. See Muwwakkil, 968 F.2d at 284 ("[S]ome showing of prejudice to the appeal is

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Number 40801.

necessary for habeas relief.") (quoting Mathis, 937 F.2d at 794).

The court concludes that the delay in the progress of the state habeas petition is not excessive and the petitioner's continued pursuit of the habeas petition in state court would not necessarily be futile. Accordingly, in the interests of federal-state judicial comity, the petitioner is not excused from exhausting his state court remedies before proceeding with his claims as asserted in the federal habeas petition filed in this court. The motion is being denied to the extent that it seeks to reopen this action.

C. Request to Change Judge

The petitioner states that this case was originally assigned to Judge Underhill, but Judge Underhill transferred this case to me. See Mot. Reopen & Consol., ECF No. 20 at 1, ¶ B. The petitioner believes that I am biased against him. He seeks to have this case transferred to another federal district judge. I liberally construe the petitioner's motion to include a request that I recuse myself from this matter.

A judge must recuse himself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). The test employed to determine whether recusal is

required is an objective one and is "based on what a reasonable person knowing all the facts would conclude." Chase Manhattan Bank v. Affiliated FM Ins. Co., 343 F.3d 120, 127 (2d Cir. 2003) (citation omitted), cert. dismissed, 541 U.S. 913 (2004). A judge must recuse himself if circumstances exist which constitute an objectively reasonable basis upon which to question the judge's impartiality, i.e., if circumstances show "a deep-seated favoritism or antagonism that would make fair judgment almost impossible." Liteky v. United States, 510 U.S. 540, 555 (1994). "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion" and "can only in the rarest circumstances evidence the degree of favoritism or antagonism required." Id.

The petitioner seeks recusal because he claims that I have ruled against him in this case as well as other cases that were transferred to me by Judge Underhill. The petitioner's dissatisfaction with the court's ruling dismissing this habeas petition and other habeas petitions without prejudice for failure to exhaust state court remedies is insufficient to support the recusal of the undersigned in this case. Because the petitioner has not identified any factors that show a "deep-seated favoritism or antagonism" to support his claim that the

undersigned is not impartial in this case or other cases filed by him, the request for my recusal and the appointment of another judge to preside over this closed case is being denied. Liteky, 510 U.S. at 555.

D. Request for Release

The petitioner seeks to be released "pending finality for good cause already shown." See Mot., ECF No. 20 at 1, ¶ C. The petitioner does not describe or demonstrate the existence of prior good cause for his release.

The petitioner also contends that his release is warranted because prison officials have denied him adequate medical treatment and have engaged in "retaliatory . . . tactical man[e]uvers also placing [him] in grave risk of permanent injury and or loss of life and limb." See id. As stated above, the petitioner initiated this matter as a habeas petition pursuant to 28 U.S.C. § 2254 to challenge his April 17, 2014 state court conviction and sentence. In a prior ruling, the court dismissed the petition for failure to exhaust state court remedies as to the challenged conviction.

The habeas petition did not challenge the conditions of the petitioner's confinement. Furthermore, there are no allegations suggesting that the petitioner exhausted his state court

remedies with respect to his request for release on the basis of unconstitutional conditions of confinement. See Baldwin v. Reese, 541 U.S. 27, 29 (2004)("Before seeking federal habeas relief, a state prisoner must exhaust available state remedies [pursuant to] 28 U.S.C. § 2254(b)(1) . . . ."). Nor would it be appropriate for the court to order relief that is unrelated to the claims in the habeas petition. See De Beers Consol. Mines Ltd. v. United States, 325 U.S. 212, 220 (1945) (preliminary injunction appropriate to grant intermediate relief of "the same character as that which relief may be granted finally," but inappropriate where the injunction "deals with a matter lying wholly outside the issues in the suit"). To the extent that the petitioner seeks to challenge his current conditions of confinement at MacDougall-Walker, he may file a separate action.

The petitioner's current conditions of confinement are not a sufficient basis to support his release from his June 5, 2015 state court conviction and sentence. Nor has the petitioner otherwise shown good cause to release him from prison. Accordingly, the request for release is being denied.

E. Request to Appoint Counsel

The petitioner contends that a "whole new set of complexities" have arisen that warrant the appointment of

counsel pursuant to "18 U.S.C. § 3006A(a)(2)(B)." See id. Because the case is closed and the court has not granted the petitioner's request to reopen it, the motion for appointment of counsel is being denied.

Conclusion

The Motions to Reopen and to Consolidate [**ECF Nos. 19, 20**] and the Motion to Reopen, to Consolidate, to Change Judge, for Release and to Appoint Counsel [**ECF No. 21**] are hereby **DENIED.**

If the petitioner seeks to challenge his April 17, 2014 conviction and sentence after he has exhausted his state court remedies, he may file a new federal action. If the petitioner seeks to challenge his current conditions of confinement at MacDougall-Walker, he may file a separate, new action. Any appeal from this order would not be taken in good faith. See 28 U.S.C. 1915(a)(3).

It is so ordered.

Signed this 7th day of November 2017 at Hartford, Connecticut.

/s/AWT
Alvin W. Thompson
United States District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

MICHAEL A. YOUNG, Petitioner,	:	
v.	:	Case No. 3:16cv1798(AWT)
WARDEN CHAPDELAINE, Respondent.	:	

RULING AND ORDER

The petitioner, Michael A. Young, is currently confined at the MacDougall-Walker Correctional Institution in Suffield, Connecticut ("MacDougall-Walker"). He filed this action pro se for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his June 5, 2015 conviction for operating a motor vehicle while he had an elevated blood alcohol content in violation of Connecticut General Statutes § 14-227a(a)(2).

At the time that he filed this action in October 2016, Young had previously filed a habeas corpus action in this court challenging the same conviction and sentence. See Young v. Chapdelaine, No. 3:16cv6(AWT) (D. Conn. Jan. 5, 2016). On April 6, 2016, the court dismissed the prior habeas petition for failure to exhaust state court remedies before filing a federal habeas action. See id. (Ruling Pet. Writ Habeas Corpus, ECF No. 7). The petitioner appealed the dismissal of the petition. On

September 9, 2016, the Second Circuit dismissed the appeal by Mandate. See id., (Mandate, Case No. 16-1415, ECF No. 19).

The habeas petition filed in this action is a copy of the petition filed in the previous habeas action, Young v. Chapdelaine, No. 3:16cv6(AWT). After reviewing the petition, the court concluded that the petitioner had failed to indicate that he had made further efforts to exhaust his state court remedies with respect to any of the grounds in the petition. Thus, on February 22, 2017, the court dismissed the petition without prejudice for the reasons stated in the ruling dismissing the petition filed in Young v. Chapdelaine, No. 3:16cv6(AWT). See Ruling and Order, ECF No. 13. The court informed the petitioner that he could challenge his conviction in federal court only after he had exhausted his state court remedies by properly presenting his claims to the Connecticut courts. See id. at 2. The Clerk entered judgment dismissing the case without prejudice on March 10, 2017. See Judgment, ECF No. 16.

The petitioner appealed the dismissal of the petition. See ECF No. 14. On June 26, 2017, the Second Circuit issued a Mandate denying the petitioner's motion for a certificate of appealability and for release from prison and dismissed the

appeal because the petitioner had not "made a substantial showing of the denial of a constitutional right." See Mandate, Case No. 17-590, ECF No. 17 (internal quotation marks and citations omitted).

The petitioner has filed two motions to reopen and to consolidate and a third motion to reopen, to consolidate, to change judge, for release from confinement and to appoint counsel. For the reasons set forth below, the motions are being denied in all respects.

I. Motions to Reopen and Consolidate [ECF Nos. 18, 19]

Both motions consist of a cover page that includes a description of the type of relief sought and references to state court trial transcripts. Attached to the first motion are copies of state court transcripts related to a pre-trial proceeding held in State v. Young, T19R-MV13-370188, a pre-trial proceeding and the plea and sentencing hearing held in State v. Young, T19R-MV13-0370552-S, and jury selection held in State v. Young, No. T19R-CR11-0099206-S. Attached to the second motion are state court transcripts relating to pre-trial proceedings and the disposition of pre-trial motions, jury selection, sentencing and post-trial motions in connection with the petitioner's trial in State v. Young, No. T19R-CR11-0099206-S.

Other than describing the motions as seeking to reopen and consolidate, there are no facts in support of either motion. It is unclear how the state court trial transcripts attached to the motions are related to the requests to consolidate and reopen. Thus, the petitioner has failed to set forth any basis on which to reopen this case or to consolidate it with two other habeas cases that are currently closed, Young v. Chapdelaine, Civil No. 3:16cv1744(AWT), and Young v Chapdelaine, Civil No. 3:16cv1720(AWT). Accordingly, the first and second motions to reopen and consolidate are being denied.

II. Motion Seeking Miscellaneous Relief [ECF No. 20]

The petitioner seeks not only to reopen and consolidate this case with two other cases, but also seeks to "change judge with order of release and appointment of counsel." See Mot., ECF No. 20 at 1. Attached to the motion are various exhibits related to the petitioner's state criminal case, State v. Young, No. T19R-CR11-0099206-S, as well as the appeal of the conviction and sentence imposed by a state court judge in that case and post-sentencing motions filed by the petitioner in connection with that conviction and sentence. See id., Exs., ECF No. 20-1. For the reasons set forth below, the motion is being denied in all respects.

A. Request to Consolidate

The petitioner again seeks to consolidate this case with two other habeas matters filed in this court that are closed, Young v. Chapdelaine, Civil No. 3:16cv1744(AWT), and Young v Chapdelaine, Civil No. 3:16cv1720(AWT). The petitioner has set forth no basis on which to consolidate this case with the two other closed habeas petitions filed by him. Accordingly, the motion is being denied to the extent that it seeks to consolidate this case with two other closed cases filed by the petitioner.

B. Request to Reopen

The petitioner seeks to reopen the case due to extraordinary circumstances. As a preliminary matter, the court notes that the dismissal of this action was without prejudice to re-filing a new habeas petition after the petitioner had exhausted his available state court remedies as to the conviction he sought to challenge. Because the court determined that none of the grounds for relief had been exhausted, there was no basis to stay the action while the petitioner exhausted his available remedies as to the grounds for relief. Thus, the court did not stay this action or dismiss it without prejudice to reopening after the exhaustion of state court remedies.

In support of his request to reopen the case, the petitioner contends that the state court process has been inordinately delayed and is futile. He makes reference to trial dates in a state habeas petition having been postponed from September 6, 2017 to September 25, 2017 and then to October 16, 2017. He claims that the October 16, 2017 trial date has also been postponed. The petitioner does not refer to the case number of his Connecticut habeas petition. Nor did the federal petition filed in this action include a reference to a habeas petition that has been filed in state court. See Pet. Writ Habeas Corpus, ECF No. 1 at 5-7. Thus, any alleged delay due to the postponement of trial dates in an unidentified state habeas petition is not a basis for the court to conclude that the Connecticut state court process is ineffective or unavailable to the petitioner as a means to challenge his June 5, 2015 conviction and sentence. Thus, the petitioner has set forth no basis on which to reopen this action. The motion is being denied to the extent that it seeks to reopen this action.

C. Request to Change Judge

The petitioner states that this case was originally assigned to Judge Underhill, but Judge Underhill transferred this case to me. See Mot. Reopen & Consol., ECF No. 20 at 1, ¶

B. The petitioner believes that I am biased against him. He seeks to have this case transferred to another federal district judge. I liberally construe the petitioner's motion to include a request that I recuse myself from this matter.

A judge must recuse himself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). The test employed to determine whether recusal is required is an objective one and is "based on what a reasonable person knowing all the facts would conclude." Chase Manhattan Bank v. Affiliated FM Ins. Co., 343 F.3d 120, 127 (2d Cir. 2003) (citation omitted), cert. dismissed, 541 U.S. 913 (2004). A judge must recuse himself if circumstances exist which constitute an objectively reasonable basis upon which to question the judge's impartiality, i.e., if circumstances show "a deep-seated favoritism or antagonism that would make fair judgment almost impossible." Liteky v. United States, 510 U.S. 540, 555 (1994). "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion" and "can only in the rarest circumstances evidence the degree of favoritism or antagonism required." Id.

The petitioner seeks recusal because he claims that I have ruled against him in this case as well as other cases that were

transferred to me by Judge Underhill. The petitioner's dissatisfaction with the court's ruling dismissing this habeas petition and other habeas petitions without prejudice for failure to exhaust state court remedies is insufficient to support the recusal of the undersigned in this case. Because the petitioner has not identified any factors that show a "deep-seated favoritism or antagonism" to support his claim that the undersigned is not impartial in this case or other cases filed by him, the request for my recusal and the appointment of another judge to preside over this closed case is being denied. Liteky, 510 U.S. at 555.

D. Request for Release

The petitioner seeks to be released "pending finality for good cause already shown." See Mot., ECF No. 20 at 1, ¶ C. The petitioner does not describe or demonstrate the existence of prior good cause for his release.

The petitioner also contends that his release is warranted because prison officials have denied him adequate medical treatment and have engaged in "retaliatory . . . tactical man[e]uvers also placing [him] in grave risk of permanent injury and or loss of life and limb." See id. As stated above, the petitioner initiated this matter as a habeas petition pursuant

to 28 U.S.C. § 2254 to challenge his June 26, 2015 state court conviction and sentence. In a prior ruling, the court dismissed the petition for failure to exhaust state court remedies as to the challenged conviction.

The habeas petition did not challenge the conditions of the petitioner's confinement. Furthermore, there are no allegations suggesting that the petitioner exhausted his state court remedies with respect to his request for release on the basis of unconstitutional conditions of confinement. See Baldwin v. Reese, 541 U.S. 27, 29 (2004)("Before seeking a federal habeas relief, a state prisoner must exhaust available state remedies [pursuant to] 28 U.S.C. § 2254(b)(1) . . . ."). Nor would it be appropriate for the court to order relief that is unrelated to the claims in the habeas petition. See De Beers Consol. Mines Ltd. v. United States, 325 U.S. 212, 220 (1945) (preliminary injunction appropriate to grant intermediate relief of "the same character as that which relief may be granted finally," but inappropriate where the injunction "deals with a matter lying wholly outside the issues in the suit"). To the extent that the petitioner seeks to challenge his current conditions of confinement at MacDougall-Walker, he may file a separate action.

The petitioner's current conditions of confinement are not a sufficient basis to support his release from imprisonment based on his June 5, 2015 state court conviction and sentence. Nor has the petitioner otherwise shown good cause to release him from prison. Accordingly, the request for release is being denied.

E. Request to Appoint Counsel

The petitioner contends that a "whole new set of complexities" have arisen that warrant the appointment of counsel pursuant to "18 U.S.C. § 3006A(a)(2)(B)." See id. Because the case is closed and the court has not granted the petitioner's request to reopen it, the motion for appointment of counsel is being denied.

Conclusion

The Motions to Reopen and to Consolidate [**ECF Nos. 18, 19**] and the Motion to Reopen, to Consolidate, to Change Judge, for Release and to Appoint Counsel [**ECF No. 20**] are hereby **DENIED.**

If the petitioner seeks to challenge his June 5, 2015 conviction and sentence after he has exhausted his state court remedies, he may file a new federal action. If the petitioner seeks to challenge his current conditions of confinement at MacDougall-Walker, he may file a separate, new action. Any

appeal from this order would not be taken in good faith. See 28 U.S.C. 1915(a)(3).

It is so ordered.

Signed this 7th day of November 2017 at Hartford, Connecticut.

/s/AWT
Alvin W. Thompson
United States District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

MICHAEL A. YOUNG, Petitioner,	:	
v.	:	Case No. 3:16cv1744(AWT)
WARDEN CHAPDELAINE, et al., Respondents.	:	

RULING AND ORDER

The petitioner, Michael A. Young, is currently confined at the MacDougall-Walker Correctional Institution in Suffield, Connecticut ("MacDougall-Walker"). He filed this action pro se for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his June 26, 2015 conviction for operating a motor vehicle while his license or right to operate a motor vehicle was under suspension for violation of Connecticut General Statutes § 14-215(c).

At the time that he filed this action in October 2016, Young had previously filed a habeas petition in this court challenging the same conviction and sentence. See Young v. Chapdelaine, No. 3:16cv26(AWT) (D. Conn. Jan. 8, 2016). On April 6, 2016, the court dismissed the prior habeas petition for failure to exhaust state court remedies before filing a federal

habeas action. See id. (Ruling Pet. Writ Habeas Corpus, ECF No. 7). The petitioner appealed the dismissal of the petition. On September 28, 2016, the Second Circuit dismissed the appeal by Mandate. See id., (Mandate, Case No. 16-1412, ECF No. 20).

The habeas petition filed in this action is a copy of the petition filed in the previous habeas action, Young v. Chapdelaine, No. 3:16cv26(AWT). After reviewing the petition, the court concluded that the petitioner had failed to indicate that he had made further efforts to exhaust his state court remedies with respect to any of the grounds in the petition. Thus, on February 22, 2017, the court dismissed the petition without prejudice for the reasons stated in the ruling dismissing the petition filed in Young v. Chapdelaine, No. 3:16cv26(AWT). See Ruling and Order, ECF No. 13. The court informed the petitioner that he could challenge his conviction in federal court only after he had exhausted his state court remedies by properly presenting his claims to the Connecticut courts. See id. at 2. The Clerk entered judgment dismissing the case without prejudice on March 10, 2017. See Judgment, ECF No. 16.

The petitioner appealed the dismissal of the petition. See ECF No. 14. On June 26, 2017, the Second Circuit issued a

Mandate denying the petitioner's motion for a certificate of appealability and for release from prison and dismissed the appeal because the petitioner had not "made a substantial showing of the denial of a constitutional right." See Mandate, Case No. 17-604, ECF No. 17 (internal quotation marks and citations omitted).

The petitioner has filed two motions to reopen and to consolidate and a third motion to reopen, to consolidate, to change judge, for release from confinement and to appoint counsel. For the reasons set forth below, the motions are being denied in all respects.

I. Motions to Reopen and Consolidate [ECF Nos. 18, 19]

Both motions consist of a cover page that includes a description of the type of relief sought and references to state court trial transcripts. Attached to the first motion are copies of state court transcripts related to a pre-trial proceeding held in State v. Young, T19R-MV13-370188, a pre-trial proceeding and the plea and sentencing hearing held in State v. Young, T19R-MV13-0370552-S, and jury selection held in State v. Young, No. T19R-CR11-0099206-S. Attached to the second motion are state court transcripts relating to pre-trial proceedings and the disposition of pre-trial motions, jury selection,

sentencing and post-trial motions in connection with the petitioner's trial in State v. Young, No. T19R-CR11-0099206-S.

Other than describing the motions as seeking to reopen and consolidate, there are no facts in support of either motion. It is unclear how the state court trial transcripts attached to the motions are related to the requests to consolidate and reopen. Thus, the petitioner has failed to set forth any basis on which to reopen this case or to consolidate it with two other habeas cases that are currently closed, Young v. Chapdelaine, Civil No. 3:16cv1798(AWT), and Young v Chapdelaine, Civil No. 3:16cv1720(AWT). Accordingly, the first and second motions to reopen and consolidate are being denied.

II. Motion Seeking Miscellaneous Relief [ECF No. 20]

The petitioner seeks not only to reopen and consolidate this case with two other cases, but also seeks to "change judge with order of release and appointment of counsel." See Mot., ECF No. 20 at 1. Attached to the motion are various exhibits related to the petitioner's state criminal case, State v. Young, No. T19R-CR11-0099206-S, as well as the appeal of the conviction and sentence imposed by a state court judge in that case and post-sentencing motions filed by the petitioner in connection with that conviction and sentence. See id., Exs., ECF No. 20-1.

For the reasons set forth below, the motion is being denied in all respects.

A. Request to Consolidate

The petitioner again seeks to consolidate this case with two other habeas matters filed in this court that are closed, Young v. Chapdelaine, Civil No. 3:16cv1798(AWT), and Young v Chapdelaine, Civil No. 3:16cv1720(AWT). The petitioner has set forth no basis on which to consolidate this case with the two other closed habeas petitions filed by him. Accordingly, the motion is being denied to the extent that it seeks to consolidate this case with two other closed cases filed by the petitioner.

B. Request to Reopen

The petitioner seeks to reopen the case due to extraordinary circumstances. As a preliminary matter, the court notes that the dismissal of this action was without prejudice to re-filing a new habeas petition after the petitioner had exhausted his available state court remedies as to the conviction he sought to challenge. Because the court determined that none of the grounds for relief had been exhausted, there was no basis to stay the action while the petitioner exhausted his available remedies as to the grounds for relief. Thus, the

court did not stay this action or dismiss it without prejudice to reopening after the exhaustion of state court remedies.

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C. Request to Change Judge

The petitioner states that this case was originally

assigned to Judge Underhill, but Judge Underhill transferred this case to me. See Mot. Reopen & Consol., ECF No. 20 at 1, ¶ B. The petitioner believes that I am biased against him. He seeks to have this case transferred to another federal district judge. I liberally construe the petitioner's motion to include a request that I recuse myself from this matter.

A judge must recuse himself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). The test employed to determine whether recusal is required is an objective one and is "based on what a reasonable person knowing all the facts would conclude." Chase Manhattan Bank v. Affiliated FM Ins. Co., 343 F.3d 120, 127 (2d Cir. 2003) (citation omitted), cert. dismissed, 541 U.S. 913 (2004). A judge must recuse himself if circumstances exist which constitute an objectively reasonable basis upon which to question the judge's impartiality, i.e., if circumstances show "a deep-seated favoritism or antagonism that would make fair judgment almost impossible." Liteky v. United States, 510 U.S. 540, 555 (1994). "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion" and "can only in the rarest circumstances evidence the degree of favoritism or antagonism required." Id.

The petitioner seeks recusal because he claims that I have ruled against him in this case as well as other cases that were transferred to me by Judge Underhill. The petitioner's dissatisfaction with the court's ruling dismissing this habeas petition and other habeas petitions without prejudice for failure to exhaust state court remedies is insufficient to support the recusal of the undersigned in this case. Because the petitioner has not identified any factors that show a "deep-seated favoritism or antagonism" to support his claim that the undersigned is not impartial in this case or other cases filed by him, the request for my recusal and the appointment of another judge to preside over this closed case is being denied. Liteky, 510 U.S. at 555.

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The petitioner seeks to be released "pending finality for good cause already shown." See Mot., ECF No. 20 at 1, ¶ C. The petitioner does not describe or demonstrate the existence of prior good cause for his release.

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and or loss of life and limb." See id. As stated above, the petitioner initiated this matter as a habeas petition pursuant to 28 U.S.C. § 2254 to challenge his June 26, 2015 state court conviction and sentence. In a prior ruling, the court dismissed the petition for failure to exhaust state court remedies as to the challenged conviction.

The habeas petition did not challenge the conditions of the petitioner's confinement. Furthermore, there are no allegations suggesting that the petitioner exhausted his state court remedies with respect to his request for release on the basis of unconstitutional conditions of confinement. See Baldwin v. Reese, 541 U.S. 27, 29 (2004)("Before seeking a federal habeas relief, a state prisoner must exhaust available state remedies [pursuant to] 28 U.S.C. § 2254(b)(1) . . . ."). Nor would it be appropriate for the court to order relief that is unrelated to the claims in the habeas petition. See De Beers Consol. Mines Ltd. v. United States, 325 U.S. 212, 220 (1945) (preliminary injunction appropriate to grant intermediate relief of "the same character as that which relief may be granted finally," but inappropriate where the injunction "deals with a matter lying wholly outside the issues in the suit"). To the extent that the

petitioner seeks to challenge his current conditions of confinement at MacDougall-Walker, he may file a separate action.

The petitioner's current conditions of confinement are not a sufficient basis to support his release from imprisonment based on his June 26, 2015 state court conviction and sentence. Nor has the petitioner otherwise shown good cause to release him from prison. Accordingly, the request for release is being denied.

E. Request to Appoint Counsel

The petitioner contends that a "whole new set of complexities" have arisen that warrant the appointment of counsel pursuant to "18 U.S.C. § 3006A(a)(2)(B)." See id. Because the case is closed and the court has not granted the petitioner's request to reopen it, the motion for appointment of counsel is being denied.

Conclusion

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If the petitioner seeks to challenge his June 26, 2015 conviction and sentence after he has exhausted his state court remedies, he may file a new federal action. If the petitioner

seeks to challenge his current conditions of confinement at MacDougall-Walker, he may file a separate, new action. Any appeal from this order would not be taken in good faith. See 28 U.S.C. 1915(a)(3).

It is so ordered.

Signed this 7th day of November, 2017 at Hartford, Connecticut.

/s/AWT
Alvin W. Thompson
United States District Judge

Additional material from this filing is available in the Clerk's Office.