

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted November 9, 2021

Decided November 9, 2021

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 21-2056

IOAN LELA,
Petitioner-Appellant,

v.

THOMAS J. DART, et al.,
Respondents-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.


No. 21 C 1014

Manish S. Shah,
Judge.

ORDER

Ioan Lela, a state pretrial detainee, seeks a certificate of appealability following the dismissal, without prejudice, of a petition for a writ of habeas corpus. We have reviewed the final order of the district court and the record on appeal and find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, the request for a certificate of appealability is DENIED.



UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

IOAN LELA (20160321230),

Petitioner,

v.

SHERIFF TOM DART, et al.,

Respondents.

Case No. 21 C 1014

Hon. Manish S. Shah

ORDER

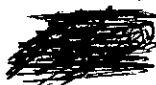
* Petitioner's 28 U.S.C. § 2241 petition [1] is dismissed without prejudice. His
motion for an immediate stay of his state criminal proceedings [4] is denied. The
Court declines to issue a certificate of appealability. Enter judgment and terminate
civil case.

STATEMENT

Petitioner Ioan Lela, a pretrial detainee at the Cook County Jail, brings this
28 U.S.C. § 2241 petition against Cook County Sheriff Tom Dart, two Cook County
prosecutors, and Cook County Circuit Court Judge James Obbish. (Dkt. 1.) Petitioner
seeks dismissal of his pending state criminal case and immediate release from
custody on speedy-trial grounds. (Dkt. 1, pg. 7.) He also moves this Court to stay
further proceedings in his state case since his "federal habeas corpus petition is
potentially 'dispositive' of" that case. (Dkt. 5, pg. 2.)

According to Petitioner, he was arrested and indicted for first-degree murder
in March of 2016; he has made a written demand for a speedy trial and has repeatedly
objected to prosecutors' continuances; a bench trial began in February of 2020, but
was continued due to the unavailability of one or more witnesses because of the
COVID-19 pandemic; and he has filed motions in the state trial court and a state
habeas petition in the Illinois Supreme Court seeking dismissal of his criminal case
on state and federal speedy-trial grounds. (Dkt. 1, pg. 4-7.)

Under Rule 4 of the Rules Governing § 2254 Cases, which applies to § 2241
petitions via Rule 1(b), this Court must initially review a habeas petition and dismiss
it if it "plainly appears . . . that the petitioner is not entitled to relief." Considering
Petitioner's pleadings, the relief he seeks—dismissal of his criminal case and release
from custody—is unavailable in a § 2241 petition.



Section 2241 relief for a pretrial detainee is limited by *Younger v. Harris*, 401 U.S. 37 (1971), which, with very few exceptions, "requires federal courts to abstain from interfering with pending state proceedings." *Sweeney v. Bartow*, 612 F.3d 571, 573 (7th Cir. 2010). "Since the beginning of this country's history Congress has, subject to few exceptions, manifested a desire to permit state courts to try state cases free from interference by federal courts." *Younger*, 401 U.S. at 43. "[W]hen the moving party has an adequate remedy at law and will not suffer irreparable injury," federal courts "should not act to restrain a criminal prosecution." *Id.* at 43-44.

Irreparable injury occurs only "if immediate federal intervention is necessary to prevent the challenge from becoming moot," such as when state criminal proceedings "violate[a petitioner's] right to a speedy trial or . . . place[] him in double jeopardy." *Sweeney*, 612 F.3d at 573 (citing *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 488-89 (1973) (speedy trial); *Walck v. Edmondson*, 472 F.3d 1227, 1232-34 (10th Cir. 2007) (double jeopardy); *Stringer v. Williams*, 161 F.3d 259, 262 (5th Cir. 1998) (double jeopardy)); see also *Winn v. Cook*, 945 F.3d 1253, 1260-63 (10th Cir. 2019) (citing cases and noting that federal courts have recognized only two claims as potentially resulting in irreparable harm—a speedy-trial claim seeking to end the delay and a double-jeopardy claim).

Although Petitioner asserts a speedy-trial claim, he does not seek a speedier trial, but instead, dismissal of his state criminal case. His claim is not one that will become moot by proceeding with his criminal case. "[H]av[ing] to stand trial is not an 'irreparable injury'" *Winn*, 945 F.3d at 1259 (citation omitted). "[T]he cost, anxiety, and inconvenience of having to defend against a . . . prosecution" are "not by themselves . . . irreparable." *Younger*, 401 U.S. at 46.

Although a delayed trial can cause irreparable harm, a constitutional defense to prosecution should not be litigated prematurely in federal court. See *Braden*, 410 U.S. at 493. Since *Braden*, the Court has clarified that a speedy-trial claim seeking dismissal of an indictment, as opposed to an immediate trial, does not warrant pretrial appellate review. "[T]he Speedy Trial Clause does not . . . encompass a 'right not to be tried' which must be upheld prior to trial if it is to be enjoyed at all. It is the delay before trial, not the trial itself, that offends against the constitutional guarantee of a speedy trial." *United States v. MacDonald*, 435 U.S. 850, 861 (1978); see also *Wright v. Volland*, 331 Fed. Appx. 496, 497 (9th Cir. 2009) (abstention was proper when the § 2241 speedy-trial claim sought dismissal of the indictment).

Petitioner cannot obtain dismissal of his criminal case—the only relief he seeks—in a pretrial § 2241 petition. If his constitutional speedy-trial right has been violated and warrants dismissal of his criminal case, that claim, like most constitutional claims, can be asserted after his trial. Accordingly, the § 2241 petition currently before this Court is dismissed.

If Petitioner seeks § 2241 relief in the form of "an order directing respondent to afford him an immediate trial," *Braden*, 410 U.S. at 485, he may be able to file another § 2241 petition. Before doing so, he must present his federal constitutional claim to the courts of Illinois. *Id.* at 491. A petitioner must properly exhaust state-court remedies for a federal claim before seeking federal habeas relief for that claim. *Olsson v. Curran*, 328 Fed. Appx. 334, 335 (7th Cir. 2009).

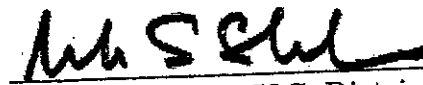
Petitioner is advised that this is a final decision ending this case in this Court. If he wishes to appeal, he must file a notice of appeal in this Court within thirty days of the entry of judgment. See Fed. R. App. P. 4(a)(1).

The Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(1) (a COA is required to appeal the dismissal of a habeas petition challenging detention that "arises out of process issued by a State court"); Rule 11, Rules Governing § 2254 Cases; see also *Evans v. Circuit Court of Cook County, Ill.*, 569 F.3d 665, 666 (7th Cir. 2009). To obtain a COA, the applicant must make "a substantial showing of the denial of a constitutional right," § 2253(c)(2), which requires him to demonstrate that "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner." *Arredondo v. Huibregtse*, 542 F.3d 1155, 1165 (7th Cir. 2008) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). Petitioner cannot make such a showing because his failure to exhaust state-court remedies and the application of *Younger* abstention are not reasonably debatable. If he seeks to appeal this order, he must first obtain a COA from the Seventh Circuit Court of Appeals. (See Fed. R. App. P. 22.)

For the above stated reasons, the Court denies Petitioner's § 2241 petition without prejudice and declines to issue a COA. The motion to stay his state criminal proceedings is denied.

ENTER:

Date: March 8, 2021


Manish S. Shah, U.S. District Judge

Appendix B

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

IOAN LELA (20160321230),)

Petitioner,)

v.)

SHERIFF TOM DART, et al.,)

Respondents.)

Case No. 21 C 1014

Hon. Manish S. Shah

ORDER

Petitioner's Fed. R. Civ. P. 59(e) motion [9] is denied. The motion, and the memorandum supporting it [11], confirm that Petitioner seeks immediate dismissal of his state criminal case, as opposed to a speedier trial. For the reasons stated in its dismissal order, this Court cannot grant such relief in a pretrial habeas corpus petition. *Younger v. Harris*, 401 U.S. 37, 46 (1971); *Sweeney v. Bartow*, 612 F.3d 571, 573 (7th Cir. 2010); *Winn v. Cook*, 945 F.3d 1253, 1259-63 (10th Cir. 2019). The Rule 59(e) motion is thus denied because it does not establish a manifest error of law or fact. *See Burritt v. Ditlefsen*, 807 F.3d 239, 253 (7th Cir. 2015). This case remains closed. If Petitioner seeks to appeal the dismissal order, he must file a notice of appeal in this Court within 30 days of the date this order is entered. As explained in the dismissal order, this Court declines to issue a certificate of appealability (COA), and Petitioner will have to seek a COA from the appellate court.

ENTER:

Date: May 4, 2021


Manish S. Shah, U.S. District Court

X
Appendix C

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF CASE OPENING

June 7, 2021

FILED
SEP 08 2021
IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

No. 21-2056	<div style="text-align: center;">IOAN LELA, Petitioner - Appellant</div> <div style="text-align: center; margin: 10px 0;">v.</div> <div style="text-align: center;">THOMAS J. DART, et al., Respondents - Appellees</div>
<div>District Court No. 1:21-cv-01014 Northern District of Illinois, Eastern Division Clerk/Agency Rep Thomas G. Bruton District Judge Manish S. Shah Case filed: 06/07/2021 Case type: pr/st Fee status: Due Date of Judgment: 05/04/2021 Date NOA filed: 06/04/2021</div>	

The above-captioned appeal has been docketed in the United States Court of Appeals for the Seventh Circuit.

Deadlines:

21-2056	Ioan Lela	Fee Due	06/21/2021
21-2056	Ioan Lela	Transcript information sheet	06/21/2021

THIS NOTICE SHALL NOT ACT AS A SUBSTITUTE FOR MOTIONS FOR NON-INVOLVEMENT / SUBSTITUTION OF COUNSEL. COUNSEL ARE STILL REQUIRED TO FILE THE APPROPRIATE MOTIONS.

Important Scheduling Notice!