

No. 22-5677

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Oct 21, 2022

DEBORAH S. HUNT, Clerk

JOHN HESSMER,

Petitioner-Appellant,

v.

ROBERT BRYAN, Sheriff,

Respondent-Appellee.

ORDER

The petitioner appeals the district court's denial of relief in habeas corpus pursuant to 28 U.S.C. § 2254. The clerk dismissed this appeal after the petitioner failed to timely file for leave to proceed on appeal in forma pauperis or pay the \$505 appellate filing fee in the district court. The petitioner now moves to reconsider the order of dismissal.

The record does not reflect that to date the petitioner has either moved the district court for leave to proceed on appeal as a pauper or paid the \$505 filing fee. He thus has not cured the deficiency that led to dismissal and reinstatement is not appropriate. The motion to reconsider is **DENIED.**

ENTERED PURSUANT TO RULE 45(a)
RULES OF THE SIXTH CIRCUIT



Deborah S. Hunt, Clerk

IN THE SIXTH CIRCUIT COURT OF APPEALS, CINCINNATI
OHIO

HESSMER

V.

BRYAN

RECEIVED

CASE No. 22-5677

OCT 31 2022

DEBORAH S. HUNT, Clerk

PETITION TO REHEAR EN BANC

ACCOMPANYING THIS PETITION TO REHEAR
EN BANC IS APPELLANT'S "SECOND"
I.F.P. APPLICATION SUBMITTED TO
THIS HONORABLE COURT. THE "FIRST"
WAS "TIMELY" SUBMITTED WITH THE
BRIEF SUBMITTED IN THIS CASE,
PLEASE REMEDY THIS OVERSIGHT.

SINCERELY YOURS,

JOHN ALLEN HESSMER

Case No. 22-5677

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

ORDER

JOHN HESSMER

Petitioner - Appellant

v.

ROBERT BRYAN, Sheriff

Respondent - Appellee

Appellant having previously been advised that failure to satisfy certain specified obligations would result in dismissal of the case for want of prosecution and it appearing that the appellant has failed to satisfy the following obligation(s):

The proper fee was not paid by September 6, 2022.

It is therefore **ORDERED** that this cause be, and it hereby is, dismissed for want of prosecution.

**ENTERED PURSUANT TO RULE 45(a),
RULES OF THE SIXTH CIRCUIT**
Deborah S. Hunt, Clerk



Issued: October 07, 2022

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JOHN ALLEN HESSMER,

Petitioner,

v.

SHERIFF ROBERT BRYAN,

Respondent.

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No. 3:22-cv-00203


ORDER

John Allen Hessmer filed an Amended Petition for a writ of habeas corpus under 28 U.S.C. § 2241. (Doc. No. 7). The Court ordered Hessmer to show cause why this action should not be dismissed under the Younger abstention doctrine. (Doc. No. 9). Thereafter, Hessmer filed a Second Amended Petition (Doc. No. 12) that failed to, among other things, “address the Younger doctrine in the context of this action.” (Doc. No. 13). In an abundance of caution, the Court allowed Hessmer one “final opportunity to show why this case should not be dismissed under the Younger abstention doctrine,” by submitting a third amended petition that complied with the Court’s Orders. Id. The Court warned Hessmer that failure to comply would result in dismissal. Thereafter, Hessmer filed a Third Amended Petition that fails to address the Younger doctrine or why this matter should not be dismissed thereunder. (Doc. No. 14). To the contrary, Hessmer repeats allegations from prior petitions concerning ongoing state criminal proceedings. Id.

Accordingly, for reasons previously explained by the Court (Doc. No. 9), the Third Amended Petition (Doc. No. 14) is **DISMISSED WITHOUT PREJUDICE** pursuant to Younger, and this case is closed. This form of dismissal allows Hessmer to file another petition based on these or other issues, subject to the Younger doctrine and all applicable rules.

The Court must issue or deny a certificate of appealability (“COA”), Habeas Rule 11(a), depending on whether a petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). If a petition is denied on procedural grounds, the petitioner must show “at least that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” Dufresne v. Palmer, 876 F.3d 248, 253 (6th Cir. 2017) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). The Court concludes that Hessmer has not satisfied this standard and **DENIES** a COA. Hessmer may seek a COA directly from the U.S. Court of Appeals for the Sixth Circuit. Habeas Rule 11; Fed. R. App. P. 22(b)(1).

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JOHN ALLEN HESSMER,

Petitioner,

v.

SHERIFF ROBERT BRYAN,

Respondent.

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No. 3:22-cv-00203

ORDER


John Allen Hessmer filed an Amended Petition for a writ of habeas corpus under 28 U.S.C. § 2241. (Doc. No. 7). The Court ordered Hessmer to show cause why this action should not be dismissed under the Younger abstention doctrine “by submitting a Second Amended Petition that identifies each of Hessmer’s habeas claims; explains the relief sought; clarifies the underlying detention and criminal proceedings and provides adequate procedural history; provides adequate factual allegations; and addresses Younger abstention.” (Doc. No. 9). Thereafter, Hessmer filed a Second Amended Petition (“SAP”). (Doc. No. 12). The rambling SAP does not comply with the Court’s Order because it fails to (1) invoke federal law or clearly explain Hessmer’s federal habeas claims and relief sought; (2) provide comprehensible procedural history and factual allegations; or (3) address the Younger doctrine in the context of this action.¹

Nevertheless, submission of the SAP indicates that Hessmer remains interested in pursuing this matter. In an abundance of caution, therefore, the Court will allow Hessmer a final opportunity to show why this case should not be dismissed under the Younger abstention doctrine. Within **45**

¹ Rather, the SAP continues to advance Hessmer’s complaints that an out-of-county Judge is engaging in “extreme malfunctions” and “extreme judicial bias.” (Doc. No. 12).

DAYS of the date this order is entered on the docket, Hessmer **MUST** file a third amended petition that complies with the directions in the first paragraph of this Order. Failure to comply or request an extension by the deadline will result in dismissal. The Clerk **SHALL** mail Hessmer (1) the Court's May 2 Order to Show Cause (Doc. No. 9), and (2) a blank Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (AO 242).

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE