

In the Supreme Court of the United States

IN RE JAMES MICHAEL FAYED,

Petitioner.

ON PETITION FOR A WRIT OF HABEAS CORPUS

BRIEF IN OPPOSITION

ROB BONTA

Attorney General of California

HELEN H. HONG

Acting Solicitor General

JAMES WILLIAM BILDERBACK II

Senior Assistant Attorney General

JOSHUA A. KLEIN

Deputy Solicitor General

IDAN IVRI*

Supervising Deputy Attorney General

A. SCOTT HAYWARD

Deputy Attorney General

STATE OF CALIFORNIA

DEPARTMENT OF JUSTICE

300 South Spring Street, Suite 1702

Los Angeles, CA 90013-1230

(213) 269-6168

Idan.Ivri@doj.ca.gov

**Counsel of Record*

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**CAPITAL CASE
QUESTION PRESENTED**

Whether this Court should grant an original writ of habeas corpus, pursuant to Supreme Court Rule 20.4(a), on petitioner's claim that the confession admitted in his murder trial resulted from a court's unlawful denial of bail.

DIRECTLY RELATED PROCEEDINGS

Supreme Court of the United States:

Fayed v. California, No. 20-244 (certiorari denied January 11, 2021).

Fayed v. Smith, No. 22-6594 (certiorari denied May 30, 2023).

United States Court of Appeals for the Ninth Circuit:

Fayed v. Warden, No. 22-99010 (certificate of appealability denied September 15, 2022; motion for reconsideration and reconsideration en banc denied October 27, 2022).

United States District Court for the Central District of California:

United States v. Fayed, No. 2:08-cr-00224-PSG (dismissed September 15, 2008).

Fayed v. Broomfield, No. 2:22-cv-05120-SPG (petition for writ of habeas corpus dismissed August 11, 2022).

California Supreme Court:

People v. Fayed, No. S198132 (judgment affirmed April 2, 2020).

In re Fayed, No. S261155 (state habeas review) (pending).

California Court of Appeal:

People v. Fayed, No. B345178 (pending).

In re Fayed, No. B345238 (petition for writ of habeas corpus denied April 9, 2025).

Superior Court of Los Angeles County:

People v. Fayed, No. BA346352 (judgment entered November 17, 2011).

In re Fayed, No. BA346532 (petition for writ of habeas corpus denied in part and granted in part March 17, 2025).

Fayed v. Harris, et al., No. 25STCP02185 (pending).

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STATEMENT

1. Petitioner James Michael Fayed and his wife Pamela ran Goldfinger Coin and Bullion, a business that provided money and precious-metal transfer services. *People v. Fayed*, 9 Cal. 5th 147, 155 (2020). In 2007, Fayed began divorce proceedings and banned Pamela from the Goldfinger offices. *Id.* The following year, federal prosecutors charged Fayed and Goldfinger in a sealed indictment with operating an unlicensed money-transmitting business. *Id.* When Pamela learned about the federal investigation, her attorney contacted the federal prosecutor, stating that she “want[ed] to come in.” *Id.* at 156. The prosecutor understood that to mean that Pamela wanted to cooperate in the investigation against Fayed and Goldfinger. *Id.*

Before Pamela could meet with the prosecutor, however, Pamela and Fayed met with their respective attorneys at a Century City office building. *Fayed*, 9 Cal. 5th at 156. As Pamela walked alone back to her car in the adjacent parking structure, she was repeatedly stabbed in the head, neck, and chest. *Id.* She died from her injuries. *Id.*

Cell phone records showed that, close to the time of the attack, Fayed had exchanged text messages with his assistant, Joey Moya, and that the cellphones of Moya’s associates, Gabriel Marquez and Steven Simmons, were near the parking structure when Pamela was killed. *Fayed*, 9 Cal. 5th at 157. Surveillance cameras recorded a red sport utility vehicle in the structure near the time of the killing. *Id.* The vehicle’s license plate matched that of a vehicle rented by Fayed and Goldfinger, and Simmons’s fingerprint was on the parking

ticket used when that vehicle left the parking structure. *Id.* Blood found inside the vehicle was identified as Pamela's. *Id.*

A few days after Pamela was killed, the federal indictment of Goldfinger and Fayed was unsealed and federal agents arrested Fayed for the offense of operating an unlicensed money-transmitting business. *Fayed*, 9 Cal. 5th at 157. The district court denied bail and ordered Fayed to be held in custody pending trial. *Id.* at 166.

While Fayed was in federal custody, his cellmate, Shawn Smith, asked to speak to police. *Fayed*, 9 Cal. 5th at 157. After meeting with a Los Angeles Police Department detective, Smith wore a recording device when he returned to the cell with Fayed. *Id.* Smith recorded Fayed admitting that he had paid Moya to kill Pamela. *Id.* Fayed also asked Smith to solicit a hitman to kill Moya before Moya could implicate Fayed in Pamela's murder. *Id.*

2. a. In September 2008, the State charged Fayed with the first-degree murder of Pamela and alleged, as special circumstances making the murder punishable by death, that the murder had been committed for financial gain and by means of lying in wait. *Fayed*, 9 Cal. 5th at 158; *see* Cal. Penal Code §§ 187(a), 190.2(a)(1), 190.2(a)(15). The State also charged Fayed with one count of conspiracy. *Fayed*, 9 Cal. 5th at 158; *see* Cal. Penal Code § 182(a)(1). To avoid interfering with the murder investigation, federal prosecutors moved to dismiss the federal indictment against Fayed on the same day. *Fayed*, 9 Cal. 5th at 160.

At the murder trial, the jury found Fayed guilty of both charges and found the special circumstances proven beyond a reasonable doubt. *Fayed*, 9 Cal. 5th at 158. After a separate penalty trial, the jury returned a verdict of death. *Id.*

b. On Fayed's direct appeal, the California Supreme Court affirmed the judgment. *Fayed*, 9 Cal. 5th at 154-214. One of Fayed's claims was that his confession to Smith should have been suppressed because the federal court should have released him on bail under the Bail Reform Act of 1984 after his arrest on the federal charge. *See Fayed*, 9 Cal. 5th at 166; 18 U.S.C. § 3142(f)). The court rejected that claim, reasoning that there was no need to decide whether the federal court's denial of bail was erroneous because Fayed had not demonstrated that suppression would be an appropriate remedy. *Fayed*, 9 Cal. 5th at 166-167 (citing *United States v. Leon*, 468 U.S. 897, 916 (1984), and *Hudson v. Michigan*, 547 U.S. 586, 591 (2006)). The court also rejected Fayed's argument that admission of the confession violated his protection against self-incrimination under the Fifth Amendment and *Miranda v. Arizona*, 384 U.S. 436 (1966). *See id.* at 165 (reasoning that there was no "coercion" and "*Miranda* was not meant to protect suspects from boasting about their criminal activities in front of people whom they believe to be their cellmates"). And the court disagreed with Fayed's claim that his confession was inadmissible under the Sixth Amendment, because that provision's right to counsel had not attached to Fayed's uncharged murder when he was in federal custody. *Id.* at 161-164.

c. Fayed filed a petition for a writ of certiorari raising the question whether admission of his confession violated his rights under the Sixth Amendment and Due Process Clause. This Court denied certiorari. *Fayed v. California*, 141 S. Ct. 1050 (2021) (No. 20-244).

3. In March 2020, the California Appellate Project filed a petition for writ of habeas corpus on Fayed's behalf in the California Supreme Court. *In re Fayed*, No. S261155 (Cal. Mar. 10, 2020). The petition has not yet been adjudicated. The filed petition serves as a placeholder until the assignment of court-appointed counsel, who will have the ability to amend the petition with additional claims. *See generally In re Morgan*, 50 Cal. 4th 932, 942 (2010).

4. a. In April 2022, Fayed filed a pro se federal petition for a writ of habeas corpus. Fayed's petition raised a variety of claims under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments, including (as relevant here) that his federal detention was unlawful and his confession should have been excluded on that basis. D. Ct. Dkt. 1 at 4, 6, 7, *Fayed v. Broomfield*, No. 22-CV-05120 (C.D. Cal. Apr. 20, 2022).

The district court dismissed the petition without prejudice. Pet. App. 4-7. The court reasoned that federal law required Fayed to exhaust state-court remedies before his federal habeas petition could be considered, and his state habeas petition remained pending. *Id.* at 6. The court denied a certificate of appealability. *Id.* at 7.

b. The court of appeals denied Fayed’s request for a certificate of appealability, Pet. App. 2, and denied his subsequent motion for reconsideration, *see* C. A. Dkt. 6 at 1, *Fayed v. Warden*, No. 22-99010 (9th Cir. Oct. 27, 2022).

c. Fayed filed a petition for a writ of certiorari asserting that the court of appeals incorrectly denied a certificate of appealability because his federal detention had violated the federal Bail Reform Act and that his confession to the cellmate should have been suppressed on that basis. Beyond that suppression argument, Fayed briefly asserted that the State violated his rights under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments. This Court denied certiorari. *Fayed v. Smith*, 143 S. Ct. 2568 (2023) (No. 22-6594).¹

ARGUMENT

A petitioner who seeks an original writ of habeas corpus from this Court “must show that exceptional circumstances warrant the exercise of the Court’s discretionary powers and that adequate relief cannot be obtained in any other

¹ Fayed has filed multiple other cases that relate to the conviction at issue in this petition. In 2024, Fayed filed a petition for habeas corpus in the Los Angeles County Superior Court, seeking to lessen his restitution fines. *In re Fayed*, No. BA346352 (Los Angeles Super. Ct.). That court granted the petition in part and denied it in part, and Fayed’s appeal to the California Court of Appeal is pending. *People v. Fayed*, No. B345178 (Cal. Ct. App., 2nd Dist.). In 2025, Fayed filed a habeas corpus petition in the California Court of Appeal relating to restitution. *In re Fayed*, No. B345238 (Cal. Ct. App., 2nd Dist.). That petition was summarily denied. And recently, Fayed filed a civil lawsuit in the Los Angeles County Superior Court, naming 33 institutional and individual defendants. *Fayed v. Harris, et al.* No. 25STCP02185 (Los Angeles Super. Ct.).

form or from any other court.” S. Ct. R. 20.4(a). The writ “is rarely granted,” *id.*, and the standard “is a demanding one,” *In re Bowe*, 144 S. Ct. 1170, 1171 (2024) (Sotomayor, J., statement respecting denial of petition for a writ of habeas corpus). Fayed has not met the standard for such extraordinary relief.

Although Fayed’s claims are not altogether clear, they center on his claims that statements he made while in federal custody should have been excluded from his state-court murder trial because the federal district court’s denial of bail had been invalid under the Bail Reform Act. Pet. 6-11, 17-22. At points, he also alludes to other alleged violations of his right against self-incrimination, *see e.g., id.* at 13, and to allegedly unconstitutional searches and seizures, *see, e.g., id.* at 9.

Fayed does not demonstrate an inability to obtain “adequate relief” on those claims “in any other form or from any other court,” as Rule 20.4(a) requires. To the contrary, his previously filed federal habeas petition was dismissed by the district court *without prejudice*—meaning that he may refile it once his state habeas proceedings conclude. Pet. App. 4-7.

Nor does this petition meet Rule 20.4(a)’s requirement of “exceptional circumstances.” On the merits, Fayed’s claims are wholly unpersuasive. *See generally People v. Fayed*, 9 Cal. 5th 147, 155 (2020), *cert. denied* 141 S. Ct. 1050 (2021). There was no violation of his Sixth Amendment rights, for reasons explained by the California Supreme Court in his direct appeal. *See id.* at 162 (reasoning that right to counsel is offense-specific and Fayed made

the incriminating statements before the state murder charges were brought (citing *McNeil v. Wisconsin*, 501 U.S. 171, 175 (1991)). The same is true of his Fourth and Fifth Amendment rights. *Id.* at 166-167 (explaining that suppression would be an invalid remedy for the alleged Fourth Amendment violation under *United States v. Leon*, 468 U.S. 897, 916 (1984)); *id.* at 165 (reasoning that Fayed's statements were freely made to a fellow inmate rather than under police compulsion (citing *Illinois v. Perkins*, 496 U.S. 292, 296 (1990))). And more generally, arguments that a confession was wrongly admitted or other evidence illegally obtained are not "exceptional." They are routinely addressed via ordinary proceedings in state and federal court, including the state and federal post-conviction avenues which remain available to Fayed, and from which he could seek to invoke this Court's certiorari jurisdiction at a later point.

CONCLUSION

The petition for an original writ of habeas corpus should be denied.

Respectfully submitted,

ROB BONTA

Attorney General of California

HELEN H. HONG

Acting Solicitor General

JAMES WILLIAM BILDERBACK II

Senior Assistant Attorney General

JOSHUA A. KLEIN

Deputy Solicitor General



IDAN IVRI

Supervising Deputy Attorney General

A. SCOTT HAYWARD

Deputy Attorney General

August 12, 2025

In the Supreme Court of the United States

IN RE JAMES MICHAEL FAYED, PETITIONER

CERTIFICATE OF SERVICE BY MAIL

I, Idan Ivri, Supervising Deputy Attorney General, a member of the Bar of this Court hereby certify that on **August 12, 2025**, a copy of the BRIEF IN OPPOSITION in the above-entitled case was mailed, United States Postal Service, Priority Mail Express, Tracking No. EJ 951 459 634 US to:

James Michael Fayed
AK3340
California Health Care Facility - Stockton
P. O. Box 213040
Stockton, CA. 95213

I further certify that all parties required to be served have been served.



IDAN IVRI, Supervising Deputy Attorney
General
Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
Telephone: (213) 269-6168
Counsel for Respondent