United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted September 5, 2025
Decided September 15, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 24-1684

PAUL KEITH BARKSDALE,
Petitioner-Appellant,

v.

DANIEL MONTI,
Respondent-Appellee.

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

No. 22 C 50176

Phillip G. Reinhard,
Judge.

ORDER

Paul Barksdale has filed a notice of appeal from the denial of his petition under 28 U.S.C. § 2254 and an application for a certificate of appealability. This court has reviewed the final order of the district court and the record on appeal. We 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.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS WESTERN DIVISION

Paul Keith Barksdale, Petitioner, v. Daniel Monti, Warden, Centralia Correctional Center,[1] Respondent.	)	Case No. 22 C 50176 Hon. Philip G. Reinhard

ORDER

Petitioner's amended § 2254 petition for writ of habeas corpus [12] is denied. The court declines to issue a certificate of appealability. If petitioner wishes to appeal this decision, he must file a notice of appeal with this court within 30 days of the date of entry of this order. *See* Fed. R. App. Pro. 4. A motion for leave to appeal *in forma pauperis* must set forth the issues petitioner plans to present on appeal. *See* Fed. R. App. P. 24(a)(1)(C). If petitioner does choose to appeal and is allowed to proceed IFP, he will be liable for the $505.00 appellate filing fee (the amount to be determined based on his prison trust fund account records) irrespective of the outcome of the appeal. The Clerk is instructed to change the name of the respondent on the docket as described in footnote 1 and as reflected in the current caption above. This case is closed.

STATEMENT

In 2018, petitioner Paul Keith Barksdale was convicted by an Illinois jury in DeKalb County, Twenty-Third Judicial Circuit, of two counts of predatory criminal sexual assault of a nine-year-old girl, who was his cousin's daughter, and sentenced to two consecutive 15-year prison terms. The assault took place in February 2012 at a family Mardi Gras party. Now before the court is petitioner's amended § 2254 habeas corpus petition [12], which asserts ten numbered claims (with two claims having subparts). Petitioner, who is proceeding *pro se*, filed a 63-page brief [13] in support of his petition. He mostly complains about various delays in bringing him to trial, and does not make any sustained argument that he is actually innocent. Respondent filed an answer [24] arguing that all of the claims should be dismissed because they are not cognizable, procedurally defaulted, or meritless. Petitioner filed a reply brief [26]. This court then ordered supplemental briefing on the issue of procedural default. Respondent filed a supplemental brief [39], and petitioner filed a sur-reply [41].

BACKGROUND

[1] According to IDOC online records, and as confirmed by respondent [39 at 1], petitioner is now in custody of the Centralia Correctional Center. Therefore, Daniel Monti, who is the warden, is substituted as respondent. *See* Fed. R. Civ. Pro. 25(d).

The following facts set forth the basic background information needed to understand the particular issues raised by the parties.[2] On December 9, 2014, one day after petitioner was arrested on four counts of predatory criminal sexual assault of a child, a judge found probable cause for his arrest, and he was charged by information. Two days later, petitioner filed a speedy trial demand. He then filed seven motions to dismiss the charges between April 29, 2015 and August 21, 2018, arguing that (i) the State failed to provide him a timely preliminary hearing; (ii) the indictment was untimely; and (iii) his statutory and constitutional rights to a speedy trial were violated. On May 22, 2015, petitioner moved to quash his arrest and suppress evidence under the Fourth Amendment and moved to suppress his statement to police under the Fifth Amendment. These motions were all denied by the trial court. On June 1, 2015 petitioner was charged by indictment with three counts of predatory criminal sexual assault of a child. On October 6, 2017, the trial court arraigned petitioner, at which time defense counsel waived formal reading.

On direct appeal, petitioner argued, in a brief filed by the state appellate defender, that the state failed to prove him guilty. Ex. D. The state appellate court then allowed petitioner to raise the following three additional claims in a *pro se* brief: (1) petitioner was not given a preliminary hearing and his indictment was untimely; (2) the trial court erred in denying his motion to quash arrest and suppress evidence because there was no probable cause to support his warrantless arrest; and (3) petitioner's statutory and constitutional rights to a speedy trial were violated. Ex. A. The appellate court affirmed petitioner's conviction, finding that he had forfeited his constitutional speedy trial claim and finding that his remaining claims lacked merit for various reasons. Petitioner renewed his *pro se* claims in a petition for leave to appeal. This petition was denied by the Illinois Supreme Court on January 26, 2022.

Petitioner's amended § 2254 petition [12] asserts the following claims:

(1) the trial court violated his Fourth Amendment rights by failing to hold a timely preliminary hearing;
(2) petitioner was arrested without a warrant in violation of the Fourth Amendment;
(3) petitioner's arraignment was untimely in violation of the Fifth and Fourteenth Amendments;
(4) petitioner's indictment was untimely in violation of
    (a) Illinois law and
    (b) the Fourth, Fifth, and Fourteenth Amendments;
(5) petitioner was denied his
    (a) statutory speedy trial right, and
    (b) constitutional speedy trial right;
(6) the trial judge was biased;

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[2] These facts are taken from respondent's answer [24] with only minor editorial changes being made. Respondent's answer in turn relies on the summary of facts and procedural history set forth in the Illinois appellate court's ruling on petitioner's direct appeal. *See People v. Barksdale*, 2021 IL App (2d) 180977-U) (filed September 8, 2021). "The state court's findings are 'presumed to be correct' and [petitioner] bears the burden of rebutting that presumption by clear and convincing evidence." *Lentz v. Kennedy*, 967 F.3d 675, 678 (7th Cir. 2020); 28 U.S.C. § 2254(e)(1).

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(7) the prosecution engaged in misconduct;
(8) the prosecution violated *Brady v. Maryland*, 373 U.S. 83 (1963);
(9) the indictments were false and invalid; and
(10) his trial and appellate counsel were ineffective.

[12 at 3.] Following respondent's lead, this court will occasionally refer to these claims by their numbers as identified in this list.

ANALYSIS

Under 28 U.S.C. § 2254, this court can grant habeas relief only if the state court's adjudication of a claim "(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the United States Supreme Court; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254 (d)(1)-(2). "A state-court decision is 'contrary to' clearly established federal law if the state court 'applied a rule different from the governing law set forth' in Supreme Court decisions or decided a case differently than the Supreme Court has 'on a set of materially indistinguishable facts.'" *Corral v. Foster*, 4 F.4th 576, 582 (7th Cir. 2021). As courts have often noted, these standards are "difficult to meet" and review is "highly deferential." *Hoglund v. Neal*, 959 F.3d 819, 832 (7th Cir. 2020).

Respondent argues that all of petitioner's claims are either noncognizable, procedurally defaulted, or meritless. For some counts, several of these arguments are made in the alternative. Because this court agrees with the respondent's conclusions and analysis, this court will mostly follow the general framework laid out by respondent.

Noncognizable. Respondent argues that claims 1, 3, 4(a), and 5(a) are not cognizable because they only raise state law issues. *See generally Dellinger v. Bowen*, 301 F.3d 758, 764 (7th Cir. 2002) (habeas relief is "unavailable to remedy errors of state law"); *Wilson v. Corcoran*, 562 U.S. 1, 5 (2010) (it is "not the province of a federal habeas court to reexamine state-court determinations on state-law questions") (quoting *Estelle v. McGuire*, 502 U.S. 62, 67-68 (1991)). This court agrees. Specifically, claim 5(a) alleges that petitioner was not tried within the 120-day period required under Illinois's Speedy Trial Act, *see* 725 ILCS 5/103-5(a); claim 3 alleges that petitioner's statutory speedy trial right was violated because the delay between his speedy trial demand and arraignment should be attributed to the prosecution; and claim 4(a) alleges that petitioner was not indicted within the 30-day time frame required by Illinois statute. As respondent correctly notes, these three claims only present questions of state law and, as such, are not cognizable. *See, e.g.*, *Trammell v. Illinois*, 2019 WL 13248341, at *2 (N.D. Ill. Nov. 4, 2019) ("[T]he 120–day requirement comes from Illinois's Speedy Trial statute, 725 ILCS 5/103-5(a); it is not a federal standard."). As for claim 1, which alleges that petitioner was denied a timely preliminary hearing, it is also not cognizable. Illinois law "provides that any individual in custody for the alleged commission of a felony must receive either a preliminary examination or an indictment by a Grand Jury within 30 days from the date he is taken into custody." *Lewis v. Dart*, 2010 WL 2990101, *2 (N.D. Ill. July 22, 2010); *see* 725 ILCS 5/109-3.1(b) (2014). The purpose

of this preliminary examination "'is to judicially determine if there is probable cause to hold the accused for trial, to inform of the charges against him, fix bail, and perpetuate testimony.'" *Lewis*, 2010 WL 2990101 at *2 (quoting 725 ILCS 5/109; *see also* Ill. Const. 1970, art. I, § 7 (same requirement). But this "subsequently scheduled preliminary hearing is not the state's attempt to comply with the requirements of the Fourth Amendment. Instead, the preliminary hearing is one method of initiating the criminal proceedings against an accused." *Lewis*, 2010 WL 2990101 at *3. Accordingly, petitioner's claim that Illinois did not comply with its laws governing preliminary hearings alleges only violations of state law and is also not cognizable on federal habeas review. *See Estelle*, 502 U.S. at 68.

Procedural Default. Respondent next argues that claims 1, 3, 4(b), 5(b) and claims 6 through 10 are all procedurally defaulted. *See O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999) (petitioner must give the state courts a meaningful opportunity to consider his claims by presenting them in "one complete round" of state court review); *Chambers v. McCaughtry*, 264 F.3d 732, 737 (7th Cir. 2001) ("Fair presentment requires the petitioner to give the state courts a meaningful opportunity to pass upon the substance of the claims later presented in federal court.") (quoting earlier case). A petitioner fairly presents his claim if he submits "both the operative facts and the controlling legal principles" through one complete round of state court review. *Malone v. Walls*, 538 F.3d 744, 753 (7th Cir. 2008). The Seventh Circuit has relied on the following four factors to determine whether a petitioner has fairly presented his claims: "(1) whether the petitioner relied on federal cases that engage in a constitutional analysis; (2) whether the petitioner relied on state cases which apply a constitutional analysis to similar facts; (3) whether the petitioner framed the claim in terms so particular as to call to mind a specific constitutional right; or (4) whether the petitioner alleged a pattern of facts that is well within the mainstream of constitutional litigation." *Whatley v. Zatecky*, 833 F.3d 762, 771 (7th Cir. 2016).

Here, respondent argues that petitioner did not meet these standards for presenting his claims to the state court. This court agrees.[3] As for claims 6 through 10 (trial judge was biased, prosecutorial misconduct, *Brady* violation, false indictments, and ineffective assistance of trial and appellate counsel), respondent argues that they are all procedurally defaulted because petitioner did not raise them at all in state court. Respondent states that none of these claims were properly raised on direct review to the Illinois appellate court, either in the brief filed by petitioner's counsel, or in the supplemental brief he filed *pro se*. It is undisputed that the Illinois appellate court did not mention any of these claims in its decision. Also, petitioner did not file any postconviction petition pursuant to 725 ILCS 5/122-1.

In his reply brief, petitioner notes that he did refer to some of these allegations in his *pro se* brief. For instance, he states that his claim of judicial bias (claim 6) was referred to several times in his supplemental brief to the Illinois appellate court [26 at 23 (citing to pages 32, 33, 37, 45, and 46 of his brief).] However, in perusing the pages cited by petitioner, the court notes that these pages only contain fleeting and vague references alleging that the trial judge was biased. And these assertions were included in larger sections dealing with other claims. There is nothing to indicate

[3] Because this court has already concluded that claims 1, 3, and 4(b) are not cognizable, this court will not separately analyze whether they are also procedurally defaulted.

that this is a separate stand-alone claim, nor is there any legal analysis to support them as being independent claims. *See, e.g.*, *Sulla v. Hepp*, 2019 WL 1206941, *6-7 (E.D. Wisc. March 14, 2019) ("Sulla relied solely on state law with no constitutional analysis in presenting his judicial bias claim."). As for claim 7 (prosecutorial misconduct), petitioner refers to page 37 of his supplemental brief where this claim is supposedly raised, but there is only one vague sentence with no development of the claim. As for claim 8 (*Brady* violation), petitioner does not point to any part of his supplemental brief where this issue was raised. *See* [26 at 24]. As for claim 9 (the indictments were false and invalid), petitioner refers to page 41 of his supplemental brief. However again, the indictments are discussed as part of a longer narrative on the speedy trial claim and there is no attempt to alert the appellate court that this is a separate argument or claim. *See generally Lockheart v. Hulick,* 443 F.3d 927, 929 (7th Cir. 2006) (petitioner must "articulat[e] the point in such a way that a judge could grasp both its substance and its foundation in federal law"). As for claim 10, the ineffective assistance claim, petitioner argues that he raised it on pages 46 and 47 of his supplemental brief. He does make one general reference to his attorney being ineffective for not making a speedy trial argument; however, again, he does not develop this argument nor flag it in the table of contents or with a heading. This is insufficient under the above standard. In sum, these references in the *pro se* supplemental brief failed to properly alert the state appellate court that petitioner was raising "distinct" claims from his state law claims. The references were fleeting, were buried in a handwritten brief that was over 49 pages long, and were subsumed within larger sections devoted to other legal issues.

Finally, as to claim 5(b), which is the Sixth Amendment speedy trial claim, respondent argues that it is procedurally defaulted because the state appellate court rejected it on the independent and adequate state law ground of forfeiture. *See* Ex. A at ¶83. When a state court resolves a federal claim by relying on a state law ground that is independent of the federal question and adequate to support the judgment, the claim is not open to federal habeas review. *Coleman v. Thompson*, 501 U.S. 722, 730 (1991); *Kaczmarek v. Rednour*, 627 F.3d 586, 591 (7th Cir. 2010). The state appellate court found that petitioner forfeited his constitutional speedy trial claim by failing to comply with Illinois Supreme Court Rule 341(h)(7); specifically, the state court found that petitioner failed to discuss how the four factors used to evaluate a Sixth Amendment speedy trial claim *specifically* applied to his case. *See* Ex. A at ¶ 83 (finding that the claim was forfeited); Ex. H (state's reply brief) at 23 (citing Ill. S. Ct. R. 341(h)(7)); Ill. S. Ct. R. 341(h)(7) (stating that appellant's brief must contain an argument setting forth "the contentions of the appellant and the reasons therefore, with citation of authority and the pages of the record relied on," and "[p]oints not argued are forfeited"). Respondent argues that this independent and adequate state law ground of decision bars federal habeas review of petitioner's constitutional speedy trial claim (Claim 5(b)). This court agrees. *See, e.g., Talley v. Varga*, 2021 WL 1143516, *3 (N.D. Ill. Mar. 25, 2021) (rejection of claims for noncompliance with Illinois Supreme Court Rule 341(h)(7) was an independent and adequate state law ground); *Diaz v. Butler*, 2021 WL 25564, *2, *18 (N.D. Ill. Jan 4, 2021) (petitioner forfeited claims because he did not "articulate a coherent argument supported by citations to the record").

It is true that in some circumstances, a procedural default may be excused. *See Love v. Vanihel*, 73 F.4th 439, 446 (7th Cir. 2023) ("A petitioner seeking review of defaulted claims has

two options. He can show 'cause and prejudice for the default' or he can demonstrate that failure to consider the defaulted claims will result in a 'miscarriage of justice.'"). But here, the court does not find that petitioner has shown any valid ground for excusing the defaults. As an initial matter, petitioner has not developed any plausible claim of actual innocence. *McQuiggin v. Perkins*, 569 U.S. 383, 386-87 (2013) (this doctrine only applies if "no juror, acting reasonably, would have voted to find [the petitioner] guilty beyond a reasonable doubt.'"); *Schlup v. Delo*, 513 U.S. 298, 324 (1995) (to make such a showing, the petitioner must present "new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial.").

Petitioner suggests several possible causes for a procedural default, but they are not sufficient. He argues that his counsel was ineffective by (among other things) allowing a potential witness (Mya Hudson) to disappear and by failing to subpoena other unnamed witnesses. [26 at 24.] But petitioner cannot use his ineffectiveness allegations to excuse his procedural default because he did not raise those allegations in state court either. *See Edwards v. Carpenter*, 529 U.S. 446, 452-53 (2000). Petitioner suggests that he was hampered by not receiving the common law record, but as respondent points out, this argument is undercut by the fact that his *pro se* supplemental brief cites to that same record. *See* [25-7 at 8-9]. Petitioner complains that there were institutional lockdowns from Covid when he was filing his brief to the Illinois appellate court. However, petitioner was able to file a lengthy brief, and it does not appear that he sought any extensions of time. *See. e.g.*, *Jordan v. Warden*, 2021 WL 3887226, * 2 (N.D. Ind. Aug. 31, 2021) ("Though Mr. Jordan's access to the law library may have been limited to some degree, the record reflects that he had nearly one year to make minor revisions to his appellate brief."); *Shafeek v. Indiana*, 2022 WL 17176314, *4 (S.D. Ind. Nov. 22, 2022) ("With respect to the impact that the COVID-19 pandemic had on law library access, Mr. Shafeek submitted no evidence that he attempted to contact the Indiana Court of Appeals to obtain an extension of time."). Petitioner also suggests that he did not fully understand the Illinois Supreme Court rules. However, the court notes that petitioner is a college graduate [28 at 2], and he has shown an ability to write a lengthy and generally coherent brief with many cases and quotations and other arguments. His amended petition is 63 pages with many pages of exhibits. Petitioner's alleged lack of knowledge is not a valid excuse. *See, e.g.*, *Chapman v. Jones*, 2020 WL 3892986, *8 (N.D. Ill. July 10, 2020) ("Petitioner's misreading of the state court opinion and his lack of knowledge on claim preservation in state court for a future federal habeas corpus proceeding do not constitute cause to excuse procedural default."). Finally, petitioner argues that procedural default should not apply because all of "the federal violations were motivated by malice." *See, e.g.* [41 at 1]. But such a vague and unsubstantiated assertion is not sufficient to establish cause for procedural default either. For all these reasons, the court finds that petitioner has not shown any valid cause to excuse his procedural defaults.

The merits. Respondent argues that a number of the claims also fail on the merits. The court agrees with these arguments generally, but the court will only discuss the one claim (Claim 2) that has not already been found defective on the alternative grounds already discussed. Claim 2 alleges that petitioner's arrest violated the Fourth Amendment. Respondent argues that this claim is barred by *Stone v. Powell*, 428 U.S. 465 (1976). *Powell* holds that a federal court may not reach

the merits of a petitioner's Fourth Amendment habeas claim if the state court granted him an opportunity for full and fair hearing on the claim. *Id.* at 481-82. Here, as respondent explains, petitioner asked the state courts to quash his arrest and suppress evidence based on the Fourth Amendment, and then the trial court held a hearing on that motion. Thereafter, the appellate court heard the claim on appeal. Petitioner thus had the requisite opportunity to litigate his Fourth Amendment claim in state court, and is thus barred by *Stone*.

Certificate of Appealability. Pursuant to Rule 11(a) of the Rules Governing § 2254 Proceedings For the United States District Courts, the court declines to issue a certificate of appealability. A certificate may issue only if petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). The court finds that while petitioner has attempted to raise constitutional claims, his claims fail, and the court does not find that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *See Peterson v. Douma*, 751 F.3d 524, 528 (7th Cir. 2014) (quotations omitted).

Date: 1/10/2024

ENTER:

Philip G. Reinhard

United States District Court Judge

Notices mailed by Judicial Staff.

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

October 1, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 24-1684

PAUL KEITH BARKSDALE,
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Appeal from the United States District Court for the Northern District of Illinois, Western Division.

No. 22 C 50176

Philip G. Reinhard,
Judge.

ORDER

Petitioner-Appellant filed a petition for rehearing on September 30, 2025. All the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

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