

From: Mr. Rickey Benson, #204821
Shelby Cty. Div. of Corrections
1045 Mullins Station Rd.
Memphis, TN 38134

To: Office of The Clerk
Supreme Court of The United States
Washington, D.C. 20543-0001

Petition For Extension Of Time To File Petition For A Writ Of Certiorari On USCA6, No. 24-5043, Due To And Here With Petition For Court To Appoint Counsel To File And Represent Petitioner On Petition For A Writ Of Certiorari On USCA6, No. 24-5043, Pursuant To The Rules Of The Court And Under The 1st, 4th And 14th Amendments Of The Bill Of Rights Of The U.S. Constitution

Cause Of Action: On Dec. 3, 2024, The U.S. Court of Appeals for the 6th Cir. denied my petition for rehearing on USCA6, No. 24-5043 (see attached order), which I had received on Jan. 31, 2025.

The court shall appoint me a counselor because I am an inmate who lack knowledge, wisdom and understanding of the laws and rules in prosecuting this case on my own, and I am also mentally and physically sick in state custody, in which county, state and federal officials are also taking advantage of me and mistreating me because I am a poor inmate.

I am requesting for an additional ninety (90) days to file a petition for a writ of certiorari on USCA6, No. 24-5043, because I pray that this Honorable court will grant my petition for a court-appointed counsel to file and represent me on a petition for a writ of certiorari on USCA6, No. 24-5043, due to the seriousness of this case under S.Ct. Rule 13.5.

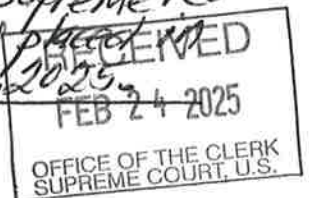
Dated: Jan. 31, 2025

Signed: (Mr.) Rickey Benson

Proof Of Service

I swear that a copy of this petition(s) was sealed inside a prepaid stamped envelope addressed to: Office of The Clerk, Supreme Court of The United States, Washington, D.C. 20543-0001, and placed in the Shelby Cty. Div. of Corrections mailing system on Jan. 31, 2025.

Signed: (Mr.) Rickey Benson



No. 24-5043

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Dec 3, 2024
KELLY L. STEPHENS, Clerk

RICKEY BENSON,
Petitioner-Appellant,
v.
FLOYD BONNER, JR., Sheriff,
Respondent-Appellee.

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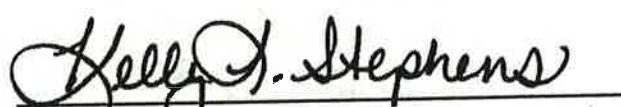
ORDER

Before: CLAY, STRANCH, and MURPHY, Circuit Judges.

Rickey Benson, an inmate at the Shelby County Criminal Justice Center, petitions for rehearing of our September 9, 2024, order denying his motion for a certificate of appealability. We have reviewed the petition and conclude that this court did not overlook or misapprehend any point of law or fact in denying Benson's motion for a certificate of appealability. *See* Fed. R. App. P. 40(a)(2).

Accordingly, the petition for rehearing is **DENIED**.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

IN THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Rickey BENSON,
Petitioner-Appellant,
v.
Floyd BONNER, Jr., Sheriff,
Respondent-Appellee.

Case No. 24-5043

MOTION TO RECONSIDER ORDER / JUDGMENT Filed: Sept. 9, 2024, Using The Original Records Of USCA6 Nos.: 24-5081 And 24-5803 Pursuant To The F.R.A.P. And The 4th And 14th Amendments Of The United States Constitution

CAUSE OF ACTION: The USDC and the USCA6 has violated my 4th and 14th Amendments rights because the original records of USCA6, Nos.: 24-5081 and 24-5803 shows that the chief U.S. Dist. Judge (SHL) had separated my motion as a petition from my complaint of US-CA6, No. 24-5081. The Circuit Judge (Eugene E. Siler Jr.) have overlooked this therein my motion(s) of my appeal of USCA6 No. 24-5043. For the issues of the orders of the USDC and the USCA6 has nothing to do with the issues of my motion that was separated as a petition from my original complaint which is about the defendants plotting to cause my HERNIA to kill me, not about my burglary case. An application to proceed i.f.p. of USCA6, No. 24-5727 (which is related to USCA6, No. 24-5043) was sent to the USDC, No. 23-02584 on 9/12/24.

Dated: 9/20/24

Signed: (Mr.) Rickey Benson

PROOF OF SERVICE

I SWEAR THAT A COPY OF THIS MOTION TO RECONSIDER WAS SEALED INSIDE A PREPAID STAMPED ENVELOPE ADDRESSED TO: OFFICE OF THE CLERK, U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT, 100 E. FIFTH STREET, RM. 540, CINCINNATI, OH. 45202-3988, and placed in the SCCJC MAILING SYSTEM ON 9/20/24.

Signed: (Mr.) Rickey Benson

No. 24-5043

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Sep 9, 2024
KELLY L. STEPHENS, Clerk

RICKEY BENSON,)
)
Petitioner-Appellant,)
)
v.)
)
FLOYD BONNER, JR., Sheriff,)
)
Respondent-Appellee.)

ORDER

Before: SILER, Circuit Judge.

Rickey Benson, an inmate at the Shelby County Criminal Justice Center, appeals the district court’s denial of his petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241. Benson’s timely notice of appeal is construed as an application for a certificate of appealability (COA). *See* Fed. R. App. P. 22(b)(2). He moves to proceed in forma pauperis on appeal. Benson has also filed a motion for oral argument.

In September 2023, Benson filed a § 2241 petition in the district court asserting, with no supporting facts, that his “civil and constitutional rights ha[d] been violated by the court and jail officials.” He later filed another document, apparently seeking discovery, release, and compensation, in which he asserted that he was “deprived” of two court dates before a preliminary hearing in a pending burglary case and that “Memphis police officers lied under oath about the body cameras . . . to cover up the fact that the prosecution lacked evidence of pictures/videos of [him] as the suspect of the burglary.”

The district court summarily denied Benson’s § 2241 petition, which it construed as arising from a then-pending case against Benson in the Shelby County, Tennessee Criminal Court after his June 27, 2023, arrest for burglary of a building. The court denied the petition because it failed to state any facts to support a claim for relief. The court also concluded that, under *Younger v.*

Harris, 401 U.S. 37, 45 (1971), it could not review any challenge to the state criminal proceedings that were still pending and that the Anti-Injunction Act prohibited it from enjoining state court proceedings. The court declined to issue a COA.

State pretrial detainees proceeding under § 2241 must obtain a COA to appeal a denied petition. *Winburn v. Nagy*, 956 F.3d 909, 911-12 (6th Cir. 2020). To obtain a COA, a petitioner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). To do this, the petitioner must demonstrate “that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El*, 537 U.S. at 327.

Reasonable jurists could not debate the district court’s denial of Benson’s § 2241 petition. Rule 2(c) of the Rules Governing Section 2254 Cases, which applies to § 2241 petitions, requires that the petition “specify all the grounds for relief” and “state the facts supporting each ground.” Rules Governing § 2254 Cases, Rules 1(b), 2(c). Benson’s petition consisted of a single sentence asserting that his constitutional rights had been violated, provided no supporting facts, and did not identify his claims. And to the extent he alluded to possible claims in his subsequent motion, he did not set forth sufficient facts to support them.

Moreover, as the district court explained, under *Younger*, “[w]hen there is a parallel, pending state criminal proceeding,” federal courts generally “must refrain from enjoining the state prosecution.” *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 72 (2013). For abstention to apply, there must be “state proceedings that are (1) currently pending; (2) involve an important state interest; and (3) will provide the federal [petitioner] with an adequate opportunity to raise his or her constitutional claims.” *Nimer v. Litchfield Twp. Bd. of Trs.*, 707 F.3d 699, 701 (6th Cir. 2013). This court has recognized three exceptions that permit a federal court to consider a pretrial habeas petition: when the petitioner seeks a speedy trial and available state-court remedies have been exhausted, see *Atkins v. Michigan*, 644 F.2d 543, 546-47 (6th Cir. 1981); when the petitioner seeks to avoid a second trial on double jeopardy grounds, see *Delk v. Atkinson*, 665 F.2d 90, 93 (6th Cir.

1981); and when the petitioner faces prejudice from prior ineffective assistance of counsel and due process violations on retrial, *see Turner v. Tennessee*, 858 F.2d 1201, 1204 (6th Cir. 1988), *vacated on other grounds*, 492 U.S. 902 (1989).

The three conditions for abstention were present here, and Benson did not meet any of the exceptions. First, criminal charges were pending against Benson at the time he filed his petition. Second, the prosecution of crimes implicates the important state interests of interpreting statutes and maintaining law and order. Third, Benson did not demonstrate that he would be unable to raise his constitutional challenges in the state-court proceeding. Finally, Benson's pleadings did not assert speedy-trial or double-jeopardy claims or assert prejudice associated with a possible retrial.

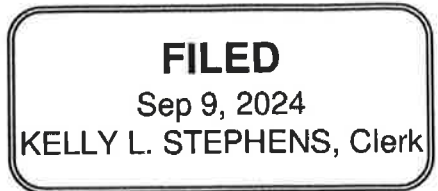
For these reasons, Benson's application for a COA and motion for oral argument are **DENIED**, and his motion to proceed in forma pauperis is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



No. 24-5043

RICKEY BENSON,

Petitioner-Appellant,

v.

FLOYD BONNER, JR., Sheriff,

Respondent-Appellee.

Before: SILER, Circuit Judge.

JUDGMENT

THIS MATTER came before the court upon the application by Rickey Benson for a certificate of appealability.

UPON FULL REVIEW of the record and any submissions by the parties,

IT IS ORDERED that the application for a certificate of appealability is DENIED.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk