

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**MARTIN E. COLE,**

**Petitioner,**

v.

**CASE NO. 21-3124-SAC**

**STATE OF KANSAS,**

**Respondent.**

**ORDER**

Petitioner filed this pro se Petition for writ of habeas corpus on May 10, 2021. On May 27, 2021, the Court entered a Memorandum and Order (Doc. 5) granting Petitioner until June 18, 2021, in which to show good cause why his Petition should not be dismissed without prejudice pursuant to the *Younger* doctrine. On June 23, 2021, the Court entered a Memorandum and Order dismissing the Petition without prejudice. (Doc. 6.) After the dismissal, the Court received an untimely response from Petitioner. (Doc. 8.) On June 25, 2021, the Court entered a Memorandum and Order (Doc. 9) finding that despite Petitioner’s late-filed response, the Court’s dismissal without prejudice stands. This matter is before the Court on Petitioner’s Notice to the Court (Doc. 10) filed on January 21, 2022.

Petitioner’s notice states that he is “AGAIN” outlining his claims. (Doc. 10, at 1.) Petitioner makes claims regarding his underlying criminal case, noting that his trial is set for March 14, 2022. (Doc. 10, at 6.) The Court previously found that Petitioner failed to show good cause why this Court should not abstain under the *Younger* doctrine. Abstention under *Younger* is mandatory when (1) there is an ongoing state criminal proceeding; (2) the state court provides an adequate forum to hear the claims raised in the petition; and (3) the state proceedings involve

important state interests traditionally resolved by state law and state policies. *See Winn v. Cook*, 945 F.3d 1253, 1258 (2019) (identifying the three conditions as warranting *Younger* abstention); *Brown ex rel. Brown v. Day*, 555 F.3d 882, 888 (2009) (noting abstention is nondiscretionary when the three conditions coexist). Therefore, the Court's dismissal of the Petition without prejudice stands and this case remains closed.

**IT IS THEREFORE ORDERED** that the Court's dismissal of the Petition without prejudice stands. This case remains closed.

**IT IS SO ORDERED.**

**Dated January 24, 2022, at Topeka, Kansas.**

s/ Sam A. Crow  
**SAM A. CROW**  
**U. S. Senior District Judge**