

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Cortez Delano Peterson v. Warden Angela Stuff

No. 3:25-CV-00679 (N.D. Ohio Jan. 2, 2026) (report and recommendation) · No. 3:25-CV-00679 · Decided
January 2, 2026

SUMMARY

This Report and Recommendation addresses Cortez Delano Peterson’s 28 U.S.C. § 2254 habeas petition challenging convictions and sentence arising from fentanyl-related offenses and resisting arrest. The magistrate judge recommends denying both requests for a stay, granting dismissal without prejudice under Federal Rule of Civil Procedure 41(a)(2), and applying prospective equitable tolling subject to conditions requiring Peterson to pursue state remedies concerning a nunc pro tunc sentencing entry and timely return to federal court.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	Amanda M. Knapp
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	January 2, 2026
DOCKET	3:25-CV-00679
DISPOSITION	dismissed
PROCEDURAL POSTURE	Report and recommendation on a state prisoner’s 28 U.S.C. § 2254 petition and motions to stay, hold the petition in abeyance, or voluntarily dismiss it.
STANDARD OF REVIEW	A stay and abeyance under Rhines v. Weber requires good cause for failure to exhaust, non-meritless unexhausted claims, and no abusive litigation tactics or intentional delay. Voluntary dismissal under Federal Rule of Civil Procedure 41(a)(2) is within the district court’s discretion and generally should be granted absent plain legal prejudice to the nonmoving party. Equitable tolling requires diligent pursuit of rights and an extraordinary circumstance preventing timely filing.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Cortez Delano Peterson v. Warden Angela Stuff

TOPICS

federal habeas corpus

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PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Criminal procedure

Civil procedure

Statute of limitations

QUESTIONS PRESENTED

1. Whether Peterson was entitled to a stay and abeyance while pursuing additional state-court proceedings under the Rhines standard.
2. Whether the petition should be voluntarily dismissed without prejudice under Federal Rule of Civil Procedure 41(a)(2).
3. Whether limited prospective equitable tolling should apply to protect the petition's claims while Peterson exhausts state remedies concerning the nunc pro tunc sentencing entry.

HOLDINGS

1. A stay and abeyance should be denied because Peterson did not establish good cause for failing to exhaust the relevant claims before filing the federal petition and did not provide enough information to show that the claims he intended to pursue were not plainly meritless.
2. The petition should be dismissed without prejudice under Federal Rule of Civil Procedure 41(a)(2).
3. Limited prospective equitable tolling should apply to the claims in the petition while Peterson pursues state remedies concerning the nunc pro tunc entry, provided that he initiates those proceedings within thirty days of dismissal and returns to federal court within thirty days after exhausting them.

KEY QUOTATIONS

"Under Rhines, a "stay and abeyance" is available where the district court determines that: (1) there was good cause for the petitioner's failure to exhaust the relevant claims first in state court; (2) the unexhausted claims are not plainly meritless; and (3) the petitioner has not engaged in abusive litigation tactics or intentional delay." (Section III.A)

"Accordingly, the undersigned concludes that the dismissal of the Petition without prejudice is an appropriate remedy under Rule 41(a)(2)." (Section III.B)

"Petitioner shall initiate proceedings to exhaust his state court remedies relating to the nunc pro tunc entry discussed in his Motion to Stay or Dismiss within thirty (30) days of this Court's order of dismissal." (Section IV)

FACTUAL BACKGROUND

Peterson is an Ohio state prisoner convicted of possessing and trafficking in a fentanyl-related compound with a major drug offender specification and of resisting arrest. His federal petition asserted five grounds, including suppression, self-representation, funding for an investigator, cumulative error, and ineffective assistance of counsel. After filing the petition, Peterson learned of a nunc pro tunc sentencing entry that he alleges differed from the oral sentence, was filed after his direct appeal, and was entered without his notice. He sought additional state-court proceedings concerning that entry and requested a stay or dismissal of the federal petition.

PROCEDURAL HISTORY

Peterson filed a § 2254 petition challenging his Ohio convictions and sentence on five grounds. He later moved to stay the federal proceedings while pursuing unspecified sentencing and nunc pro tunc issues in state court. The respondent opposed a stay but did not oppose dismissal without prejudice. The magistrate judge recommends denying both requests for a stay, granting voluntary dismissal without prejudice, and applying limited prospective equitable tolling subject to conditions.

DISPOSITION

dismissed

CASES CITED

- Cook v. Stegall, 295 F.3d 517, 521 (6th Cir. 2002)
- Houston v. Lack, 487 U.S. 266, 273 (1988)
- Rhines v. Weber, 544 U.S. 269, 276-77 (2005)
- O’Sullivan v. Boerckel, 526 U.S. 838 (1999)
- Hafley v. Sowders, 902 F.2d 480, 483 (6th Cir. 1990)
- Rose v. Lundy, 455 U.S. 509, 510, 518-19 (1982)
- Woodford v. Garceau, 538 U.S. 202, 206 (2003)
- Esters v. Vashaw, No. 1:20-CV-12882, 2021 WL 6495041, at *2 (E.D. Mich. June 30, 2021)
- Clinton v. Jones, 520 U.S. 681, 706 (1997)
- Landis v. North American Co., 299 U.S. 248, 254 (1936)
- Grover by Grover v. Eli Lilly & Co., 33 F.3d 716, 718 (6th Cir. 1994)
- Bridgeport Music, Inc. v. Universal-MCA Music Publishing, Inc., 583 F.3d 948, 953 (6th Cir. 2009)
- Papenfus v. Tibbals, 289 F. Supp. 2d 897, 902-03 (N.D. Ohio 2003)
- Kearns v. Ohio Adult Parole Authority, No. 5:22-CV-00390, 2022 WL 19334260, at *9 (N.D. Ohio Dec. 28, 2022), report and recommendation adopted, 2023 WL 2734742 (N.D. Ohio Mar. 31, 2023)
- Moon v. Robinson, No. 1:12CV1396, 2013 WL 3991886, at *8 (N.D. Ohio Aug. 2, 2013)
- Thompson v. Shelton, No. 3:13-CV-00529, 2014 WL 223378, at *9 (N.D. Ohio Jan. 21, 2014)
- Kincade v. Wolfenbarger, 324 F. App’x 482, 487 (6th Cir. 2009)
- Hargrove v. Brigano, 300 F.3d 717, 721 (6th Cir. 2002)
- Berkshire v. Dahl, 928 F.3d 520, 530 (6th Cir. 2019)

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Bergman, 836 F.2d 1220 (citation as stated in petition)
- Aleman v. Hudson, No. 1:07CV739, 2008 WL 821091, at *1 (N.D. Ohio Mar. 27, 2008)

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