

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

Jacob Ferguson v. Warden, Belmont Correctional Institution

Ferguson · No. 2:26-cv-89 · Decided March 4, 2026

SUMMARY

The United States Magistrate Judge recommends dismissing without prejudice and terminating Jacob Ferguson’s earlier habeas case, No. 2:25-cv-1426, because it is duplicative of his later case, No. 2:26-cv-89, and challenges the same state-court judgment. The order permits Ferguson to continue proceeding in the later case and directs the Clerk to file the order in both cases. It also sets forth the procedure and deadline for objections under Federal Rule of Civil Procedure 72(b).

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Eastern Division
WRITING FOR THE COURT	Elizabeth A. Preston Deavers
JURISDICTION	United States District Court for the Southern District of Ohio, Eastern Division
DECIDED	March 4, 2026
DOCKET	2:26-cv-89
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner filed two pro se federal habeas corpus cases challenging the same state-court judgment. In this Order and Report and Recommendation, the magistrate judge recommended dismissal without prejudice of the earlier case, Case No. 2:25-cv-1426, while permitting the petitioner to proceed in Case No. 2:26-cv-89.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge report and recommendation
PARTIES	Jacob Ferguson v. Warden, Belmont Correctional Institution

TOPICS

- federal habeas corpus
- civil procedure
- post-conviction relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether duplicative federal habeas petitions challenging the same state-court judgment should be consolidated or whether the earlier action should be dismissed without prejudice.
2. Whether the earlier habeas action should be terminated because the petitioner failed to pay the filing fee or seek leave to proceed in forma pauperis.

HOLDINGS

1. The magistrate judge recommended dismissing Case No. 2:25-cv-1426 without prejudice and terminating it on the docket because it duplicated Case No. 2:26-cv-89 and challenged the same state-court judgment.

KEY QUOTATIONS

“The Undersigned opts for dismissal over consolidation so that Petitioner does not have to pay two filing fees to bring one dispute to the Court.”

FACTUAL BACKGROUND

Jacob Ferguson is a state prisoner incarcerated at Belmont Correctional Institution. He filed two pro se habeas corpus cases in the Southern District of Ohio challenging the same state-court judgment. He paid the filing fee in Case No. 2:26-cv-89 but did not pay the fee or seek in forma pauperis status in Case No. 2:25-cv-1426.

PROCEDURAL HISTORY

Petitioner paid the filing fee and proceeded in Case No. 2:26-cv-89, where the respondent had been ordered to answer and provide any necessary state-court record. Petitioner neither paid the filing fee nor moved to proceed in forma pauperis in Case No. 2:25-cv-1426, and no substantive activity occurred there. Because the two petitions were duplicative and challenged the same judgment, the magistrate judge recommended dismissing the earlier case without prejudice rather than consolidating the proceedings.

DISPOSITION

other

CASES CITED

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)

OPINION

IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO EASTERN DIVISION JACOB FERGUSON, Petitioner, v. Case No. 2:26-cv-89 Chief Judge Sarah D.

Morrison WARDEN, Belmont Correctional Magistrate Judge Elizabeth P. Deavers Institution, Respondent. ORDER AND REPORT AND RECOMMENDATION Petitioner Jacob Ferguson, a state prisoner incarcerated at Belmont Correctional Institution (“BECI”), has two pro se habeas corpus cases pending before this Court: 1.

Case No. 2:25-cv-1426 (S.D. Ohio Dec. 1, 2025); and 2. Case No. 2:26-cv-89 (S.D. Ohio Dec. 12, 2025). Petitioner paid the required filing fee to proceed with Case No. 2:26-cv-89 (Doc. 1) and the Respondent-Warden has been ordered to file an answer to the Petition and any necessary portions of the state court record (Doc. 7). But Petitioner did not pay the required filing fee or a motion for leave to proceed in forma pauperis to proceed with Case No. 2:25-cv-1426 and nothing has occurred in that case.

In any event, because the Petitions in both cases are duplicative and challenge the same state court judgment, the Undersigned RECOMMENDS that Case No. 2:25-cv-1426 be DISMISSED without prejudice. Petitioner may continue to proceed with Case No. 2:26-cv-89 It is thus RECOMMENDED that Case No. 2:25-cv-1426 be DISMISSED without prejudice and TERMINATED on the docket.

The Undersigned opts for dismissal over consolidation so that Petitioner does not have to pay two filing fees to bring one dispute to the Court. It is further ORDERED that the Clerk file this Order and Report and Recommendation in Case No. 2:25-cv-1426, in addition to the instant case. IT IS SO ORDERED AND RECOMMENDED. March 4, 2026 s/ Elizabeth A. Preston Deavers ELIZABETH A. PRESTON DEAVERS United States Magistrate Judge Procedure on Objections Pursuant to Fed.

R. Civ. P. 72(b), WITHIN 14 DAYS after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections.

If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the District Judge otherwise directs. A party may respond to another party’s objections WITHIN 14 DAYS after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). 2

