

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION AT CINCINNATI

Mayberry v. Warden, Warren Correctional Institution

Mayberry · No. 1:25-cv-617 · Decided February 10, 2026

SUMMARY

A United States Magistrate Judge recommends dismissing Robert Mayberry’s 28 U.S.C. § 2254 habeas corpus petition for failure to comply with an order directing him to show cause why the case should not be dismissed for failure to exhaust state-court remedies. The Report and Recommendation explains that dismissal is warranted for want of prosecution and provides the procedure and deadline for filing objections.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division at Cincinnati
WRITING FOR THE COURT	Elizabeth A. Preston Deavers
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division at Cincinnati
DECIDED	February 10, 2026
DOCKET	1:25-cv-617
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. The magistrate judge issued a Report and Recommendation proposing dismissal without prejudice for failure to prosecute after petitioner failed to respond to an order to show cause concerning exhaustion of state-court remedies.
STANDARD OF REVIEW	A magistrate judge's Report and Recommendation is subject to objections within fourteen days under Fed. R. Civ. P. 72(b); failure to object may forfeit appellate rights.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Robert Mayberry v. Warden, Warren Correctional Institution

TOPICS

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PRACTICE AREAS

[federal habeas corpus](#)[civil procedure](#)[post-conviction relief](#)

QUESTIONS PRESENTED

1. Whether the court should dismiss the § 2254 habeas proceeding for petitioner's failure to comply with an order to show cause and failure to prosecute.

HOLDINGS

1. A petitioner's failure to comply with an order to show cause and failure to respond within the prescribed period warrants invocation of the district court's inherent authority to dismiss the action for want of prosecution; the magistrate judge therefore recommended dismissal.

KEY QUOTATIONS

“District courts have the inherent power to sua sponte dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”

FACTUAL BACKGROUND

Robert Mayberry filed a federal habeas petition under 28 U.S.C. § 2254. The court ordered him to explain why the case should not be dismissed without prejudice for failure to exhaust available state-court remedies. Mayberry did not respond within the required thirty-day period or otherwise comply with the order.

PROCEDURAL HISTORY

On October 10, 2025, the court ordered petitioner to show cause within thirty days why the habeas case should not be dismissed without prejudice because available state-court remedies had not been exhausted. The order warned that failure to respond would result in dismissal for want of prosecution. Petitioner did not respond, and the magistrate judge recommended dismissal. The parties were given fourteen days to object under Federal Rule of Civil Procedure 72(b).

DISPOSITION

dismissed

CASES CITED

- Link v. Wabash R.R., 370 U.S. 626, 630-631 (1962)
- In re Alea, 286 F.3d 378, 382 (6th Cir. 2002)
- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)

OPINION

Mayberry

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION AT CINCINNATI

ROBERT MAYBERRY, : Case No. 1:25-cv-617 Petitioner, : : District Judge Susan J. Dlott vs. :
Magistrate Judge Elizabeth P. Deavers WARDEN, WARREN CORRECTIONAL :
INSTITUTION. : Respondent. :

REPORT AND RECOMMENDATION

Petitioner has filed a Petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1-1). On October 10, 2025, the Court issued an Order requiring Petitioner to show cause in writing, within thirty (30) days, why this case should not be dismissed without prejudice on the ground that Petitioner has not exhausted available state-court remedies. (Doc. 4). Petitioner was advised that “failure to respond to this Order within the requisite 30-day period will result in the case being dismissed for want of prosecution.” (Id. at PageID 48). More than thirty days have passed, and Petitioner has not complied with the Order of the Court. “District courts have the inherent power to sua sponte dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). Failure of a party to respond to an order of the Court warrants invocation of the Court’s inherent power in this federal habeas corpus proceeding. See Fed. R. Civ. P. 41(b); see also Rule 11, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254. Accordingly, this case should be dismissed for Petitioner’s failure to comply with the Court’s October 10, 2025, Order. *In re Alea*, 286 F.3d 378, 382 (6th Cir. 2002). It is therefore RECOMMENDED that this matter be DISMISSED for lack of prosecution.

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 assigned 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).

February 10, 2026 s/ Elizabeth A. Preston Deavers

ELIZABETH A. PRESTON DEAVERS

United States Magistrate Judge

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