

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.

OPINION

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