

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Douglas Varnell Jackson, III v. Edward Borla

Jackson v. Borla · No. 1:24-cv-0786 JLT CDB · Decided September 23, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and dismissed Douglas Varnell Jackson III’s 28 U.S.C. § 2254 habeas petition without leave to amend. The court found that the petition failed to state a cognizable federal habeas claim and that dismissal was also warranted for failure to prosecute and failure to maintain a current mailing address.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 DOUGLAS VARNELL JACKSON, III,) Case No.: 1:24-cv-0786 JLT CDB
) 12 Petitioner,) ORDER ADOPTING IN FULL THE FINDINGS) AND
RECOMMENDATIONS, DISMISSING THE 13 v.) PETITION, AND DIRECTING THE
CLERK OF) COURT TO CLOSE THE CASE 14 EDWARD BORLA,)) (Doc. 7) 15
Respondent.)) 16 17 Douglas Jackson III is a state prisoner proceeding with a petition for writ of
habeas corpus filed 18 28 U.S.C. § 2254.

(Doc. 1.) The magistrate judge performed a preliminary review of the petition 19 pursuant to Rule
4 of the Rules Governing § 2254 Cases and found Petitioner fails to state a cognizable 20 federal
claim, because he “challenges only the procedures and outcome of his petition for 21
resentencing..., not his underlying 2008 conviction.” (Doc. 7 at 2-3.)

The magistrate judge found that 22 leave to amend the petition would be futile, because Petitioner
was previously denied habeas relief 23 related to his conviction, and amendment “would result in
an improper successive petition.” (Id. at 3- 24 4.)

The magistrate judge recommended the Court dismiss the petition. (Id. at 4.) 25 The Court served
the Findings and Recommendations on Petitioner at the address on record and 26 notified him that
any objections were due within 14 days. (Doc. 7.)

The Court advised him that the 27 “failure to file objections within the specified time may result
in the waiver of rights on appeal.” (Id., 28 citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th
Cir. 2014).) However, the Postal Service 1 returned the Court’s mail as undeliverable on August

22, 2025. Nevertheless, the Court's service is 2 deemed fully effective pursuant to Local Rule 182(f).

3 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. Having 4 carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported 5 by the record and proper analysis.

Moreover, Petitioner has failed to prosecute this matter. 6 Pursuant to Local Rule 183(b), Petitioner is required to keep the Court informed of her current 7 mailing address. In relevant part, the Local Rules provide: 8 A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a 9 plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties 10 within thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

11 12 Id. Because more than 30 days have passed since the Postal Service returned the Court's mail on 13 August 22, 2025, Petitioner failed to comply with Local Rule 183(b). Thus, the Court may also 14 "dismiss the action without prejudice for failure to prosecute." Id.; see also *Henderson v. Duncan*, 779 15 F.2d 1421, 1424 (9th Cir. 1986) (dismissal proper for failure to prosecute and comply with local rules 16 of court); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir.

1995) (dismissal for failure to comply with 17 local rules). 18 In finding dismissal is also appropriate for failure to prosecute, the Court considered the factors 19 outlined by the Ninth Circuit including: "(1) the public's interest in expeditious resolution of litigation; 20 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public 21 policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." 22 *Henderson*, 779 F.2d at 1423.

The public's interest in expeditiously resolving this litigation and the 23 Court's interest in managing the docket weigh in favor of dismissal. See *Yourish v. Cal. Amplifier*, 191 24 F.3d 983, 990 (9th Cir. 1999) ("The public's interest in expeditious resolution of litigation always 25 favors dismissal"); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992) (district courts have an 26 inherent interest in managing their dockets without being subject to noncompliant litigants).

Because 27 Petitioner failed to keep the Court informed of his current mailing address, the third factor also supports 28 dismissal. No lesser sanction is feasible given the Court's inability to communicate with Petitioner. 1 || *Gaston v. Marean*, 2020 WL 4059200, at *3 (E.D. Cal. July 20, 2020) ("given the Court's apparent 2 || inability to communicate with Plaintiff, there are no other reasonable alternatives available to address 3 || Plaintiffs failure to prosecute this action and his failure to apprise the Court of his current address").

4 || Thus, the Court ORDERS: 5 1. The Findings and Recommendations issued on August 7, 2025
(Doc. 7) are 6 ADOPTED in full. 7 2. The petition is DISMISSED without leave to amend, for
failure to state a cognizable 8 federal habeas claim and failure to prosecute. 9 3.

The Clerk of Court is directed to close this case. 10 11 SO ORDERED. 12 || Dated: _ September
23, 2025 (LAW pA L. wan 13 TED STATES DISTRICT JUDGE 14 15 16 17 18 19 20 21 22 23
24 25 26 27 28