

**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

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 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 within thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

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 "dismiss the action without prejudice for failure to prosecute." Id.; see also *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal proper for failure to prosecute and comply with local rules of court); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir.

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

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

Because Petitioner failed to keep the Court informed of his current mailing address, the third factor also supports 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 || Plaintiff's 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