

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, WESTERN DIVISION

Deivis Hernandez Guedes v. Merrick B. Garland et al.

Guedes · No. 5:26-cv-00078-DCB-BWR · Decided May 11, 2026

SUMMARY

The United States District Court for the Southern District of Mississippi recommends dismissing Deivis Hernandez Guedes’s 28 U.S.C. § 2241 petition without prejudice. The recommendation is based on his failure to prosecute the case and comply with three court orders, including orders requiring an amended petition and payment of the filing fee or an in forma pauperis motion.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Western Division
WRITING FOR THE COURT	Bradley W. Rath
JURISDICTION	United States District Court for the Southern District of Mississippi, Western Division
DECIDED	May 11, 2026
DOCKET	5:26-cv-00078-DCB-BWR
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 41(b) and the court's inherent authority, an action may be dismissed sua sponte for failure to prosecute or failure to obey court orders. Objections to a magistrate judge's report and recommendation are reviewed de novo by the district judge under Federal Rule of Civil Procedure 72(b)(3).
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Deivis Hernandez Guedes v. Merrick B. Garland et al.

TOPICS

- federal habeas corpus
- immigration detention
- civil procedure

PRACTICE AREAS

Federal habeas corpus

Immigration detention

Civil procedure

QUESTIONS PRESENTED

1. Whether the § 2241 petition should be dismissed without prejudice because petitioner failed to prosecute the action and failed to obey three court orders.

HOLDINGS

1. The magistrate judge recommended that the § 2241 petition be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and the court's inherent authority because petitioner failed to prosecute and obey three court orders.

KEY QUOTATIONS

“will result in this cause being dismissed without further notice to Petitioner.” (at 2)

FACTUAL BACKGROUND

Guedes, a Cuban national who entered the United States in 2021, was detained by ICE on December 9, 2025, and filed a § 2241 petition seeking release from custody. The court ordered him to submit a compliant § 2241 petition and address the filing fee or seek in forma pauperis status. He failed to comply with those orders and with a later order to show cause, while returned mail indicated that he had been released from detention.

PROCEDURAL HISTORY

Guedes filed a § 2241 petition seeking immediate release from Immigration and Customs Enforcement custody. The court ordered him to file a compliant petition and either pay the filing fee or seek leave to proceed in forma pauperis, but he did not comply. After the orders and a subsequent order to show cause were returned or unanswered, the magistrate judge recommended dismissal without prejudice for failure to prosecute and failure to obey court orders.

DISPOSITION

other

CASES CITED

- Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962)
- Douglass v. United Servs. Auto. Assoc., 79 F.3d 1415, 1428-29 (5th Cir. 1996)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI WESTERN DIVISION DEIVIS HERNANDEZ GUEDES PETITIONER V. Cause No. 5:26-cv-00078-DCB-BWR MERRICK B. GARLAND et al. RESPONDENTS REPORT AND

RECOMMENDATION THIS MATTER is before the Court on the 28 U.S.C. § 2241 Petition [1] filed pro se by Deivis Hernandez Guedes.

The Petition should be dismissed due to Petitioner's failure to prosecute and obey three Court Orders [4] [5] [8]. I. BACKGROUND Petitioner is a native of Cuba. Pet. [1] at 1. He entered the United States on April 17, 2021. Id. U.S. Immigration and Customs Enforcement (ICE) detained Petitioner on December 9, 2025. Id. The Clerk of Court received and filed Petitioner's § 2241 Petition on February 10, 2026 (signed by Petitioner on January 9, 2026).

Id. at 3. The Petition seeks Petitioner's immediate release from ICE custody. Id. At the time he filed the Petition, Petitioner was housed at the Adams County Detention Center in Natchez, Mississippi. Id. at 1. On March 11, 2026, the Court entered an Order [4] directing Petitioner, on or before April 10, 2026, to file a Petition that complies with Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts by completing, signing, and filing the attached form "Petition For A Writ of Habeas Corpus Under 28 U.S.C. § 2241" to continue with this case or file a Notice of Voluntary Dismissal if he does not wish to pursue this case.

Order [4] at 1. On the same day, the Court also ordered Petitioner, by April 10, to pay the \$5.00 filing fee or move for leave to proceed in forma pauperis ("IFP"). Order [5]. Both Orders [4] [5] were mailed to Petitioner at his address of record at Adams County Correctional Center.

On April 16, 2026, both Orders were returned as undeliverable with a box checked indicating that Petitioner has been released. Mail Return [6]. An Order denying Petitioner's Motion for Immediate Release [2] was also mailed to Petitioner at Adams County Correctional Center and returned as undeliverable on April 16, 2026. Mail Return [7]. When Petitioner missed his April 10, 2026 deadline, an Order to Show Cause issued setting a deadline of May 5, 2026 for Petitioner to file a written response showing cause why this case should not be dismissed for his failure to comply with two Court Orders [4] [5] and again ordering Petitioner to comply with those Orders.

Order [8] at 1. Petitioner was warned that failure to timely comply would be deemed a purposeful delay and contumacious act that "will result in this cause being dismissed without further notice to Petitioner. Id. at 2.

The Order [8] was mailed to Petitioner to his address of record at Adams County Correctional Center. Petitioner did not comply with his May 5, 2026 either, meaning he has now not complied with three Court Orders [4] [5] [8]. According to ICE's Online Detainee Locator System, Petitioner is no longer in ICE custody. See <https://locator.ice.gov> (last visited May 11, 2026).

The Petition should be dismissed without prejudice under Federal Rule of Civil 2 Procedure 41(b) and under the Court's inherent authority to dismiss an action sua sponte, *Link v. Wabash R.R.*, 370 U.S. 626, 629-30 (1962), due to Petitioner's failure to prosecute and obey three Court Orders [4]

[5] [8]. II. RECOMMENDATION It is recommended that the Petition [1] be dismissed without prejudice due to Petitioner's failure to prosecute and obey three Court Orders [4] [5] [8].

III. NOTICE OF RIGHT TO OBJECT Within fourteen days after being served with a copy of this Report and Recommendation, a party may serve and file specific written objections to the proposed findings and recommendations. Fed. R. Civ. P. 72(b)(2). A party may respond to another party's objections within 14 days after being served with a copy of the objections.

Id. The district judge will determine de novo any part of the Report and Recommendation that has been properly objected to. Fed. R. Civ. P. 72(b)(3). The district judge may accept, reject, or modify the Report and Recommendation; receive further evidence; or return the matter to the magistrate judge with instructions. Id. An objecting party must specifically identify the findings, conclusions, and recommendations to which he objects.

A district judge need not consider frivolous, conclusive, or general objections. A party who fails to file written objections to the proposed findings, conclusions, and recommendations shall be barred, except upon grounds of plain error, from attacking on appeal any proposed factual finding or legal conclusion adopted by the Court to which he did not object.

Douglass v. United Servs. 3 Auto. Assoc., 79 F.3d 1415, 1428-29 (5th Cir. 1996), superseded by statute on other grounds, 28 U.S.C. § 636(b)(1). SIGNED, this the 11th day of May 2026. Bradley W. Rath s/ BRADLEY W. RATH UNITED STATES MAGISTRATE JUDGE 4