

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lafond v. Zuniga

Lafond · No. 2:22-cv-1093 AC P · Decided March 8, 2023

SUMMARY

A federal magistrate judge recommends dismissing Raoul Lafond’s 28 U.S.C. § 2241 habeas petition for failure to prosecute and failure to obey a court order after Lafond did not respond to the respondent’s motion to dismiss or a subsequent court order. The recommendation also states that the motion to dismiss should be denied as moot and that a certificate of appealability should not issue.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 8, 2023
DOCKET	2:22-cv-1093 AC P
DISPOSITION	other
PROCEDURAL POSTURE	A federal prisoner proceeding pro se filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. After the respondent moved to dismiss, the petitioner failed to oppose the motion or comply with a subsequent court order directing a response. The magistrate judge issued findings and recommendations recommending dismissal for failure to prosecute and failure to obey a court order.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Raoul Lafond v. Raphael Zuniga, Warden

TOPICS

[federal habeas corpus](#) [motions to dismiss](#) [civil procedure](#)

PRACTICE AREAS

[Habeas corpus](#) [Civil procedure](#)

QUESTIONS PRESENTED

1. Whether the habeas action should be dismissed for failure to prosecute and failure to obey a court order.
2. Whether respondent's motion to dismiss should be denied as moot after dismissal of the action.
3. Whether the court should decline to issue a certificate of appealability.

HOLDINGS

1. The action should be dismissed under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because petitioner failed to prosecute the action and failed to obey the court's order directing him to respond.
2. Respondent's motion to dismiss should be denied as moot because the action should be dismissed for petitioner's failure to prosecute and failure to obey a court order.
3. The court recommended declining to issue a certificate of appealability.

KEY QUOTATIONS

"More than thirty days have passed, and petitioner has neither filed a response to respondent's motion to dismiss nor responded to the court's order in any way." (at 1)

FACTUAL BACKGROUND

Petitioner Raoul Lafond, a federal prisoner proceeding without counsel, filed an application for a writ of habeas corpus under 28 U.S.C. § 2241. Respondent filed a motion to dismiss, but petitioner failed to file an opposition or statement of non-opposition within the allotted time. After the court ordered petitioner to respond within thirty days, more than thirty days passed without any response or other action by petitioner.

PROCEDURAL HISTORY

Respondent moved to dismiss on subject-matter and jurisdictional grounds on October 13, 2022. Petitioner did not respond within the time allowed by Local Rule 230(l), and he also failed to comply with the court's January 18, 2023 order granting him an additional thirty days to respond. The magistrate judge recommended dismissal, denial of the motion to dismiss as moot, and denial of a certificate of appealability, subject to district-judge review under 28 U.S.C. § 636(b)(1)(B).

DISPOSITION

other

CASES CITED

- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

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