

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.

OPINION

(HC) Lafond v. Zuniga

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 RAOUL LAFOND, No. 2:22-cv-1093 AC P 12 Petitioner, 13 v. ORDER and

14 RAPHAEL ZUNIGA, WARDEN, FINDINGS and RECOMMENDATIONS

15 Respondent. 16

17 Petitioner, a federal prisoner proceeding pro se, has filed an application for a writ of 18 habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States 19 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On October 13, 2022, respondent filed a motion to dismiss this action on various subject 21 matter and jurisdictional grounds. ECF No. 10. Pursuant to Local Rule 230(l), petitioner had 22 twenty-one days to file an opposition or a statement of non-opposition to respondent’s motion. 23 Petitioner, however, failed to file a response within the time allotted. As a result, on January 18, 24 2023, the court ordered petitioner to respond within thirty days. ECF No. 15. 25 More than thirty days have passed, and petitioner has neither filed a response to 26 respondent’s motion to dismiss nor responded to the court’s order in any way. For this reason, 27 the undersigned will recommend that this matter be dismissed for failure to prosecute and for 28 failure to obey a court order. See Fed. R. Civ. P. 41(b); Local Rule 110.] Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a 2 || District Judge to this action. 3 IT IS FURTHER RECOMMENDED that: 4 1. This matter be DISMISSED for failure to prosecute and for failure to obey a court 5 | order; 6 2. Respondent’s motion to dismiss (ECF No. 10) be DENIED as moot; and 7 3. The court DECLINE to issue the certificate of appealability referenced in 28 U.S.C. § 8 | 2253. 9 These findings and

recommendations are submitted to the United States District Judge 10 || assigned to the case, pursuant to the provisions of 28 U.S.C. §636(b)(1). Within fourteen days 11 | after being served with these findings and recommendations, any party may file written 12 || objections with the court and serve a copy on all parties. Such a document should be captioned 13 || “Objections to Magistrate Judge’s Findings and Recommendations.” If petitioner files objections, 14 || he shall also address whether a certificate of appealability should issue and, if so, why and as to 15 || which issues. See 28 U.S.C. § 2253(c)(2). Any reply to the objections shall be served and filed 16 || within seven days after service of the objections. The parties are advised that failure to file 17 || objections within the specified time may waive the right to appeal the District Court’s order. 18 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 19 | DATED: March 8, 2023 * 20 Lhar—e_
ALLISON CLAIRE
21 UNITED STATES MAGISTRATE JUDGE
22 23 24 25 26 27 28