

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Anthony Richard Turner v. Sheriff Thomas A. Ferrara

No. 2:25-cv-0933 DC CSK P (E.D. Cal. Nov. 5, 2025) · No. No. 2:25-cv-0933 DC CSK P · Decided November 5, 2025

SUMMARY

The court recommends dismissal without prejudice of Anthony Richard Turner’s habeas action against Sheriff Thomas A. Ferrara because Turner failed to file a second amended petition after being granted leave to do so. Applying the dismissal factors identified in *Ferdik v. Bonzelet*, the court concludes that dismissal for failure to prosecute is appropriate. The findings and recommendations advise Turner of his fourteen-day period to file objections.

CASE DETAILS

|                       |                                                                                                                                                                                                            |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                        |
| WRITING FOR THE COURT | Chi Soo Kim                                                                                                                                                                                                |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                        |
| DECIDED               | November 5, 2025                                                                                                                                                                                           |
| DOCKET                | No. 2:25-cv-0933 DC CSK P                                                                                                                                                                                  |
| DISPOSITION           | other                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Magistrate judge findings and recommendations recommending dismissal without prejudice of a habeas action after petitioner failed to file a second amended petition within the court-ordered period.       |
| STANDARD OF REVIEW    | Dismissal for failure to prosecute is evaluated under the five-factor framework concerning expeditious resolution, docket management, prejudice, disposition on the merits, and less drastic alternatives. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                            |
| PARTIES               | Anthony Richard Turner v. Sheriff Thomas A. Ferrara                                                                                                                                                        |

TOPICS

- federal habeas corpus
- post-conviction relief
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the habeas action should be dismissed without prejudice for petitioner's failure to prosecute after failing to file a second amended petition within the court-ordered deadline.
2. Whether the five factors governing dismissal for failure to prosecute weighed in favor of dismissal.

## HOLDINGS

1. Because petitioner failed to comply with the order granting leave to file a second amended petition and the case could not proceed without petitioner's participation, the five dismissal factors weighed in favor of dismissal without prejudice.

## KEY QUOTATIONS

*“(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 alternatives.”* (at 1)

## FACTUAL BACKGROUND

The court had dismissed petitioner's first amended petition for writ of habeas corpus and allowed thirty days to file a second amended petition. The deadline expired, and petitioner did not respond or otherwise participate. Because the action could not proceed without petitioner's participation, the magistrate judge recommended dismissal without prejudice.

## PROCEDURAL HISTORY

The court previously dismissed petitioner's first amended habeas petition and granted thirty days' leave to file a second amended petition. Petitioner did not respond after the thirty-day period expired. The magistrate judge recommended dismissal without prejudice for failure to prosecute and advised petitioner of the fourteen-day objection period under 28 U.S.C. § 636(b)(1).

## DISPOSITION

other

## CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 ANTHONY RICHARD TURNER, No. 2:25-cv-0933 DC CSK P 12

Petitioner, 13 v. FINDINGS AND RECOMMENDATIONS 14 SHERIFF THOMAS A. FERRARA, 15 Respondent. 16 17 By order filed September 19, 2025, petitioner's first amended petition for writ of habeas 18 corpus was dismissed, and thirty days' leave to file a second amended petition was granted.

The 19 thirty day period has now expired, and petitioner has not responded to the Court's order. 20 In recommending this action be dismissed for failure to prosecute, the Court has 21 considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to 22 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 23 disposition of cases on their merits; and (5) the availability of less drastic alternatives." *Ferdik v. 24 Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.

1992) (citation omitted). Because this case cannot 25 move forward without petitioner's participation, the Court finds the factors weigh in favor of 26 dismissal. 27 In accordance with the above, IT IS HEREBY RECOMMENDED that this action be 28 dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b). ] These findings and recommendations are submitted to the United States District Judge 2 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 3 || after being served with these findings and recommendations, petitioner may file written 4 || objections with the court. The document should be captioned "Objections to Magistrate Judge's 5 || Findings and Recommendations." Petitioner is advised that failure to file objections within the 6 || specified time may waive the right to appeal the District Court's order.

*Martinez v. Ylst*, 951 7 | F.2d 1153 (9th Cir. 1991). 8 9 | Dated: November 5, 2025 4 aA 10 \ Aaa spe CHI SOO KIM i UNITED STATES MAGISTRATE JUDGE 12 || /1um0933.fta.hab 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28