

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)