

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hoffer v. Gamboa

Hoffer · No. 2:25-CV-1253-DMC-P · Decided July 16, 2025

SUMMARY

The United States District Court for the Eastern District of California considers a state prisoner’s habeas corpus petition under 28 U.S.C. § 2254. The magistrate judge recommends dismissal without prejudice for lack of prosecution and failure to comply with an order to resolve the filing-fee status, while directing random assignment of a district judge.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 16, 2025
DOCKET	2:25-CV-1253-DMC-P
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. After the court ordered him to submit an in forma pauperis application or pay the filing fee and warned that noncompliance could result in dismissal, he failed to comply. The magistrate judge ordered random assignment of a district judge and recommended dismissal without prejudice.
STANDARD OF REVIEW	Dismissal as a sanction for failure to prosecute or comply with court rules and orders is evaluated under five factors: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to the opposing party, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	Unknown; findings and recommendations of a magistrate judge, not a final district court judgment, and no precedential designation appears.
PARTIES	Michael Hoffer v. Martin Gamboa

TOPICS

federal habeas corpus

post-conviction relief

sanctions

civil procedure

PRACTICE AREAS

Federal habeas corpus

post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for lack of prosecution and failure to comply with the court's order to submit an in forma pauperis application or pay the filing fee.
2. Whether the five-factor dismissal framework supports dismissal as a sanction for Petitioner's noncompliance.

HOLDINGS

1. After weighing the applicable five factors, the court found that dismissal without prejudice was appropriate because Petitioner failed to resolve the fee status as directed and failed to comply with court rules and orders.

KEY QUOTATIONS

“A warning that the action may be dismissed as an appropriate sanction is considered a less drastic alternative sufficient to satisfy the last factor.” (at 1)

“These findings and recommendations are submitted to the United States District Judge assigned to the case”
(at 2)

FACTUAL BACKGROUND

Petitioner, a state prisoner proceeding pro se, filed a petition for federal habeas corpus relief. The court ordered him to submit either an application to proceed in forma pauperis or the full filing fee within 30 days. Although warned that failure to comply could result in dismissal, Petitioner had not resolved the fee status by the time of the order and findings and recommendations.

PROCEDURAL HISTORY

On May 8, 2025, the court directed Petitioner to submit a completed application to proceed in forma pauperis or pay the full filing fee within 30 days. Petitioner did neither despite being warned that noncompliance could result in dismissal. The magistrate judge recommended dismissal for lack of prosecution and failure to comply with court rules and orders, subject to objections and review by an assigned district judge.

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)

- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
- *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam)
- *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)
- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 MICHAEL HOFFER, No. 2:25-CV-1253-DMC-P 12
Petitioner, ORDER 13 v. and 14 MARTIN GAMBOA, FINDINGS AND RECOMMENDATIONS
15 Respondent. 16 17 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ
of 18 habeas corpus under 28 U.S.C. § 2254.

On May 8, 2025, the Court directed Petitioner to submit 19 either a completed application for
leave to proceed in forma pauperis or the full filing fee for this 20 action within 30 days. See ECF
No. 4. Petitioner was warned that failure to comply may result in 21 dismissal of this action for
lack of prosecution and failure to comply with court rules and orders.

22 See Local Rule 110. To date, Petitioner has failed to comply. 23 The Court must weigh five
factors before imposing the harsh sanction of 24 dismissal. See *Bautista v. Los Angeles County*,
216 F.3d 837, 841 (9th Cir. 2000); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987). Those factors are: (1) the public's interest 26 in expeditious resolution of litigation; (2) the
Court's need to manage its own docket; (3) the risk 27 of prejudice to opposing parties; (4) the
public policy favoring disposition of cases on their 28 merits; and (5) the availability of less
drastic sanctions.

See *id.*; see also *Ghazali v. Moran*, 46 1 } F.3d 52, 53 (9th Cir. 1995) (per curiam). A warning that
the action may be dismissed as an 2 || appropriate sanction is considered a less drastic alternative
sufficient to satisfy the last factor. See 3 | *Malone*, 833 F.2d at 132-33 & n.1.

The sanction of dismissal for lack of prosecution 1s 4 | appropriate where there has been
unreasonable delay. See *Henderson v. Duncan*, 779 F.2d 1421, 5 || 1423 (9th Cir. 1986). Dismissal
has also been held to be an appropriate sanction for failure to 6 || comply with an order to file an
amended complaint. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 7 || 1260-61 (9th Cir.

1992). 8 Having considered these factors, and in light of Petitioner's failure to resolve the 9 || fee
status for this case as directed, the Court finds that dismissal of this action is appropriate. 10
Accordingly, IT IS HEREBY ordered and recommended as follows: 11 1. It is ORDERED that the
Clerk of the Court is directed to randomly assign 12 | a District Judge to this case.

13 2. It is RECOMMENDED that this action be dismissed without prejudice for 14 | lack of prosecution and failure to comply with court rules and orders. 15 These findings and recommendations are submitted to the United States District 16 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within 14 days 17 || after being served with these findings and recommendations, any party may file written 18 || objections with the court.

Responses to objections shall be filed within 14 days after service of 19 | objections. Failure to file objections within the specified time may waive the right to appeal. See 20 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 21 22 Dated: July 15, 2025 Co 23 DENNIS M. COTA 4 UNITED STATES MAGISTRATE JUDGE 25 26 27 28