

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Eric Dorsey v. Warden, FCI Beckley

Dorsey · No. 5:25-cv-173 · Decided January 26, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia dismissed Eric Dorsey’s 28 U.S.C. § 2241 habeas petition under Federal Rule of Civil Procedure 41(b) for failure to prosecute after he failed to pay the filing fee or submit an application to proceed without prepayment of fees. The court adopted the magistrate judge’s proposed findings and recommendation, denied without prejudice the motion to waive exhaustion, and granted leave to refile if Dorsey had not received notice of the recommendation.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	Frank W. Volk
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	January 26, 2026
DOCKET	5:25-cv-173
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 and moved to waive exhaustion of administrative remedies. After Petitioner failed to pay the filing fee or submit an application to proceed without prepayment, the magistrate judge recommended dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	No de novo review was required for portions of the magistrate judge's PF&R to which no objections were filed. General and conclusory objections would also not require de novo review.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Eric Dorsey v. Warden, FCI Beckley

TOPICS

- federal habeas corpus
- post-conviction relief
- civil procedure
- waiver
- motions to dismiss

PRACTICE AREAS

federal habeas corpus

civil procedure

post-conviction relief

QUESTIONS PRESENTED

1. Whether the action should be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b) after Petitioner failed to pay the filing fee or submit an application to proceed without prepayment despite repeated notices.
2. Whether the court was required to conduct de novo review of the magistrate judge's PF&R when Petitioner filed no objections.
3. Whether Petitioner's motion to waive exhaustion of administrative remedies should be denied without prejudice.

HOLDINGS

1. The district court was not required to conduct de novo review of the magistrate judge's factual or legal conclusions because Petitioner filed no objections.
2. The action was dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute.
3. Petitioner's motion to waive the requirement to exhaust administrative remedies was denied without prejudice.

KEY QUOTATIONS

“Accordingly, the Court ADOPTS the PF&R [Doc. 11], DISMISSES this action under Rule 41(b) for failure to prosecute, DENIES WITHOUT PREJUDICE Mr. Dorsey’s Motion to Waive Requirement to Exhaust Administrative Remedies [Doc. 3], and REMOVES the matter from the docket.” (Order)

FACTUAL BACKGROUND

Dorsey filed a § 2241 petition and a motion to waive exhaustion of administrative remedies but did not pay the required \$5 filing fee or submit an application to proceed without prepayment. The court and magistrate judge repeatedly notified him of the deficiency and warned that failure to comply would result in dismissal for failure to prosecute. Notices and the PF&R were remailed after being returned as undeliverable, but Dorsey filed no fee, application, or objections.

PROCEDURAL HISTORY

Dorsey filed a § 2241 petition and a motion to waive exhaustion on March 19, 2025. The magistrate judge repeatedly notified him to pay the filing fee or submit an application to proceed without prepayment, and later issued a PF&R recommending dismissal after he failed to comply. Although notices were remailed after being returned as undeliverable and after Dorsey was transferred to another facility, he filed no fee, application, or objections. The district court adopted the PF&R, dismissed the action under Rule 41(b), denied the exhaustion motion without prejudice, and removed the matter from the docket.

DISPOSITION

dismissed

CASES CITED

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019)
- Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF WEST VIRGINIA AT BECKLEY ERIC DORSEY, Petitioner, v. CIVIL ACTION NO. 5:25-cv-173 WARDEN, FCI BECKLEY, Respondent. ORDER Pending are Petitioner Eric Dorsey's (1) Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. 1], and (2) Motion to Waive Requirement to Exhaust Administrative Remedies [Doc. 3], both filed March 19, 2025.

This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). On March 19, 2025, Mr. Dorsey was advised of his failure to pay the \$5.00 filing fee, and his ability to file an Application to Proceed Without Prepayment of Fees if he could not afford the fee.

[Doc. 4]. On March 31, 2025, Magistrate Judge Tinsley notified Mr. Dorsey that (1) the matter would not proceed unless and until the filing fee or completed application form were received, and (2) his failure to comply would result in a recommendation of dismissal of the action for failure to prosecute. [Doc. 6]. Both notices were subsequently returned as undeliverable on April 16, 2025, and May 5, 2025, because Mr. Dorsey's inmate number was incorrectly cited thereon.

[Docs. 7, 9]. The notices were resent to Mr. Dorsey at FCI Beckley with the corrected information those same dates. [Id.]. There is no indication from the docket those notices were not successfully delivered to Mr. Dorsey after their remailing.

On October 2, 2025, Magistrate Judge Tinsley, filed a Renewed Order and Notice [Doc. 10], again notifying Mr. Dorsey that his failure to pay the filing fee or submit an Application to Proceed Without Prepayment of Fees and Costs by October 15, 2025, would result in a recommendation of dismissal for failure to prosecute. [Doc. 10]. No fee or application was filed by Mr. Dorsey.

On October 21, 2025, Magistrate Judge Tinsley filed his PF&R. [Doc. 11]. Magistrate Judge Tinsley recommended that the Court dismiss the matter for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and deny without prejudice Mr. Dorsey's Motion to Waive Requirement to Exhaust Administrative Remedies.

On November 10, 2025, the PF&R was returned as undeliverable. [Doc. 12]. The Bureau of Prisons Inmate Locator revealed Mr. Dorsey was now incarcerated at FCI Williamsburg. [Id.]. The PF&R was thus remailed to that location on November 10, 2025. [Id.].

On December 5, 2025, Magistrate Judge Tinsley's October 2, 2025, Renewed Order and Notice was returned as undeliverable and, like the PF&R, was resent to Mr. Dorsey at his new place of incarceration that same date. [Doc. 13].

As of this writing, 63 days have lapsed since the remailing of the PF&R, and 38 days have lapsed since the remailing of the Renewed Order and Notice. No responses have been filed by Mr. Dorsey. The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed.

See *Thomas v. Arn*, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order.

See 28 U.S.C. § 636(b)(1); see also *United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections in this case were originally due on November 7, 2025. No objections were filed. Accordingly, the Court ADOPTS the PF&R [Doc. 11], DISMISSES this action under Rule 41(b) for failure to prosecute, DENIES WITHOUT PREJUDICE Mr. Dorsey's Motion to Waive Requirement to Exhaust Administrative Remedies [Doc. 3], and REMOVES the matter from the docket.

Mr. Dorsey is given leave to file this action anew in the event he has, for some unknown reason, failed to receive notice of the PF&R despite its remailing on November 10, 2025. The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party. ENTER: January 26, 2026 Frank W. Volk "fame" = Chief United States District Judge ' Despite Mr. Dorsey's apparent failure to keep the Court apprised of his current address as required by Local Rule of Civil Procedure 83.5, out of an abundance of caution, additional time has been afforded to Mr. Dorsey to object to the PF&R to account for the remailings detailed above.

Still, no objections have been filed. The matter is thus ripe for adjudication.

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