

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Clifford Stubbs v. State of Nevada

Stubbs · No. 2:25-cv-01434-CDS-MDC · Decided December 4, 2025

SUMMARY

The United States District Court for the District of Nevada dismissed Clifford Stubbs’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 without prejudice because he failed to pay the required filing fee after being ordered to do so. The court denied a certificate of appealability, directed procedural steps concerning service and the Nevada Attorney General, and ordered the case closed.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 4, 2025
DOCKET	2:25-cv-01434-CDS-MDC
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se Nevada prisoner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. After the court denied his application to proceed in forma pauperis and ordered him to pay the \$5 filing fee by October 17, 2025, the petitioner failed to pay, seek an extension, or otherwise prosecute the case. The court dismissed the petition without prejudice.
STANDARD OF REVIEW	The court applied the five-factor test governing dismissal for failure to obey a court order or prosecute: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	unpublished district court order; persuasive only

TOPICS

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

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether the court should dismiss the § 2254 petition without prejudice for failure to comply with the order requiring payment of the filing fee.
2. Whether the court should deny a certificate of appealability after dismissing the petition for noncompliance.

HOLDINGS

1. A district court may dismiss an action for failure to obey a court order or comply with applicable rules, but must consider the public interest in expeditious resolution, docket management, prejudice to the opposing party, the policy favoring decisions on the merits, and the availability of less drastic alternatives.
2. Dismissal without prejudice was warranted because Stubbs failed to pay the filing fee or otherwise prosecute after receiving a clear deadline and warning, and setting another deadline would not have been a meaningful less drastic alternative.
3. A certificate of appealability was denied because jurists of reason would not find the dismissal debatable or wrong.

KEY QUOTATIONS

“Courts “need not exhaust every sanction short of dismissal before finally dismissing a case, but must explore possible and meaningful alternatives.”” (at 5)

FACTUAL BACKGROUND

Clifford Stubbs, a pro se Nevada prisoner, submitted a petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court denied his application to proceed in forma pauperis and ordered him to pay a \$5 filing fee by October 17, 2025, warning that noncompliance would result in dismissal without prejudice. Stubbs did not pay the fee, request an extension, or take any other action to prosecute the case.

PROCEDURAL HISTORY

Stubbs initiated the federal habeas action by submitting a § 2254 petition. The court denied his application to proceed in forma pauperis and warned that failure to pay the filing fee would result in dismissal without further notice. After Stubbs failed to comply, the court applied the Ninth Circuit's five-factor dismissal analysis and dismissed the petition without prejudice, denied a certificate of appealability, directed filing and informal electronic service of the petition, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)

- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
- In re Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Yourish v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)

OPINION

Stubbs

PER CURIAM.

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2 UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

3 4 Clifford Stubbs, Case No.: 2:25-cv-01434-CDS-MDC 5 Petitioner Order Dismissing Petition
Without Prejudice 6 v. 7 State of Nevada, [ECF No. 3] 8 Respondents 9 10 Petitioner Clifford
Stubbs, a pro se Nevada prisoner, initiated this case by submitting a 11 petition for writ of habeas
corpus under 28 U.S.C. § 2254 (ECF No. 1-1). I denied Stubbs's 12 application to proceed in
forma pauperis (IFP) and instructed him to pay the \$5 filing fee no later 13 than October 17, 2025.
ECF No. 3. 14 I warned Stubbs that a failure to comply would result in the dismissal of this action
15 without prejudice and without further advance notice. Id. To date, Stubbs has not paid the \$5 16
filing fee, requested an extension of time, or taken any other action to prosecute this case. 17 I.
Discussion 18 District courts have the inherent power to control their dockets and "[i]n the
exercise of 19 that power, they may impose sanctions including, where appropriate . . . dismissal"
of a case. 20 Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986).
A court may dismiss 21 an action based on a party's failure to obey a court order or comply with
local rules. See Carey v. 22 King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for
failure to comply with local 23 rule requiring pro se plaintiffs to keep court apprised of address);
Malone v. U.S. Postal Service, 833 25 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
comply with court order). In determining 26 whether to dismiss an action on one of these grounds,
the Court must consider: (1) the public's 27 interest in expeditious resolution of litigation; (2) the
court's need to manage its docket; (3) the 28 risk of prejudice to the defendants; (4) the public
policy favoring disposition of cases on their 1 merits; and (5) the availability of less drastic
alternatives. See In re Phenylpropanolamine Prod. Liab. 2 Litig., 460 F.3d 1217, 1226 (9th Cir.
2006) (quoting Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th
3 Cir. 1987)).

4 The first two factors, the public's interest in expeditiously resolving this litigation and 5 the
court's interest in managing its docket, weigh in favor of dismissal. The third factor, risk of 6

prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises 7 from the occurrence of unreasonable delay in filing a pleading ordered by the court or 8 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth 9 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by 10 the factors favoring dismissal. 11 The fifth factor requires the court to consider whether less drastic alternatives can be 12 used to correct the party’s failure that brought about the court’s need to consider dismissal. See 13 *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic 14 alternatives before the party has disobeyed a court order does not satisfy this factor); accord 15 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive 16 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives 17 prior to disobedience of the court’s order as satisfying this element[,]” i.e., like the “initial 18 granting of leave to amend coupled with the warning of dismissal for failure to comply[,]” have 19 been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before 20 finally dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v. 21 Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this court cannot operate without collecting 22 reasonable fees, and litigation cannot progress without Stubbs’s compliance with court orders, 23 the only alternative is to enter a second order setting another deadline. But the reality of 24 repeating an order is that it often only delays the inevitable and squanders the court’s finite 25 resources. The circumstances here do not indicate that this case will be an exception. Setting 26 another deadline is not a meaningful alternative given these circumstances. So the fifth factor 27 favors dismissal. 1} IL. Conclusion 2 I order that petitioner Clifford Stubbs’s petition for writ of habeas corpus [ECF No. 1-1] dismissed without prejudice based his on failure to comply with the court’s September 18, 4||2025 order (ECF No. 3). 5 I further order that petitioner is denied a certificate of appealability, as jurists of reason 6|| would not find dismissal of the petition for the reasons stated herein to be debatable or wrong. 7 I further order that the Clerk of Court is instructed to add Nevada Attorney General 8}| Aaron D. Ford as counsel for the respondents. No response is required other than to respond to 9|| any orders of a reviewing court. 10 I further order that pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Clerk of Court will file the petition (ECF No. 1-1), direct informal electronic service upon the 12)|| respondents, and provide to the respondents an electronic copy of all items previously filed in 13)|| this case by regenerating the Notice of Electronic Filing to the office of the AG only. 14 I further order that the Clerk of Court is instructed to enter final judgment accordingly and to close this case. 16 Dated: December 2, 2025 J / 19 7 ted States District Judge 20 21 22 23 24 25 26 27 28