

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA**

An Van Vo v. Markwayne Mullin, et al.

An Van Vo v. Markwayne Mullin, et al. · No. CIV-26-410-J · Decided May 13, 2026

SUMMARY

The court adopted a magistrate judge's Report and Recommendation and dismissed without prejudice a pro se petition under 28 U.S.C. § 2241 challenging immigration detention. The dismissal was based on the petitioner's failure to pay the filing fee, seek in forma pauperis status, or otherwise comply with the court's deficiency order, and his failure to object to the recommendation.

OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF OKLAHOMA AN VAN VO,)
) Petitioner,)) v.) Case No. CIV-26-410-J) MARKWAYNE MULLIN, et al.,)) Respondents.)
ORDER Petitioner, appearing pro se, filed a Petition under 28 U.S.C. § 2241 challenging his detention with the United States Immigration and Customs Enforcement, but did not pay the \$5.00 filing fee or seek leave to proceed in forma pauperis.

[Doc. No. 1]. The matter was referred for initial proceedings to United States Magistrate Judge Amanda L. Maxfield consistent with 28 U.S.C. § 636(b)(1)(B), (C). Judge Maxfield ordered Petitioner to cure the deficiency on or before April 13, 2026, and instructed Petitioner that his “[f]ailure to comply... may result in dismissal of this action.” [Doc. No. 5].

Petitioner’s deadline has passed, and he has not paid the filing fee, moved for leave to proceed in forma pauperis, or otherwise communicated with the Court. Accordingly, Judge Maxfield issued a Report and Recommendation recommending that the Court dismiss the action without prejudice. [Doc. No. 6]. Despite being cautioned that he must file any objection no later than May 11, 2026, Petitioner did not object and has waived his right to appellate review of the factual and legal issues addressed in the Report and Recommendation.

See *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2020). Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 6] and DISMISSES the Petition under 28 U.S.C. § 2241 without prejudice. See Fed. R. Civ. P. 41(b); see also *DeAtley v. Williams*, 782 F. App’x 736, 737 (10th Cir. 2019) (affirming dismissal of habeas petition under Rule 41(b)); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir.

2003) (“Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions sua sponte for a plaintiff’s

failure to prosecute or comply with the rules of civil procedure or court's orders."'). A separate judgment will enter. IT IS SO ORDERED this 13" day of May, 2026.

Wet m-s7 BERNARD M. JONES, II UNITED STATES DISTRICT JUDGE

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