

**UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, NORTHERN DIVISION**

Taurus Lebron Green v. United States

Green · No. 2:22-CV-613-WKW · Decided December 8, 2025

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION TAURUS LEBRON GREEN,)) Petitioner,)) v.) CASE NO. 2:22-CV-
613-WKW) [WO] UNITED STATES OF AMERICA,)) Respondent.) ORDER In 2022,
Petitioner Taurus Lebron Green filed a pro se motion under 28 U.S.C. § 2255, challenging his
sentence in United States v. Green, 2:20-CR-104-WKW-02.

(Doc. # 1.) The motion was reassigned to the undersigned on September 10, 2025. At the time of
filing, Petitioner was incarcerated at FCI Forrest City-Low. (Doc. # 1 at 1; see also Doc. # 1-1 at
2, ¶ 3.) Recently, it was determined that Petitioner has not been in the custody of the Federal
Bureau of Prisons (BOP) since August 22, 2025. (See Doc. # 17 at 2 & n.3.)

As a result, by Order dated November 13, 2025 (“Show-Cause Order”), Plaintiff was directed to
file a response confirming his requested relief and showing cause as to why his § 2255 motion not
be denied as moot and dismissed based on his release from BOP custody. (Doc. # 17 at 3.)

The Show-Cause Order set a December 2, 2025 deadline and warned that “Petitioner’s failure to
file a response, as directed, will result in dismissal of the § 2255 motion for failure to prosecute
and comply with [the Show-Cause] Order.” (Doc. # 17 at 3.) Petitioner, who is no longer
incarcerated, did not timely file a response to the Show-Cause Order. Consequently, as
forewarned, Petitioner’s § 2255 motion will be dismissed for failure to prosecute and comply with
the Show- Cause Order.

A district court “may... dismiss a case under its inherent authority, which it possesses as a means
of managing its own docket so as to achieve the orderly and expeditious disposition of cases.”
McNair v. Johnson, 143 F.4th 1301, 1306–07 (11th Cir. 2025) (cleaned up).

The authority of courts to impose sanctions for failure to comply with court orders and failure to
prosecute is longstanding and acknowledged by Rule 41(b) of the Federal Rules of Civil
Procedure.¹ Link v. Wabash R.R. Co., 370 U.S. 626, 629–30 (1962); see also Moon v. Newsome,
863 F.2d 835, 837 (11th Cir. 1989) (noting that “dismissal upon disregard of an order, especially
where the litigant has been forewarned, generally is not an abuse of discretion”).

A court’s dismissal under its inherent authority “can be either with or without prejudice to
refiling.” McNair, 143 F.4th at 1306. Dismissal with prejudice as a 1 The Rules Governing Section

2255 Proceedings for the United States District Courts do not address dismissals with or without prejudice.

However, the Rules allow for the application of the Federal Rules of Civil Procedure when there is no conflict with statutory provisions or the Rules. Here, applying Rule 41(b) of the Federal Rules of Civil Procedure does not present any conflict. sanction “is warranted only upon a ‘clear record of delay or willful contempt and a finding that lesser sanctions would not suffice.’” *Mingo v. Sugar Cane Growers Co- Op of Fla.*, 864 F.2d 101, 102 (11th Cir.

1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)); accord *McNair*, 143 F.4th at 1306. “A dismissal without prejudice, by contrast, doesn’t require a finding of willfulness or bad faith because its consequences are less severe.” *McNair*, 143 F.4th at 1306.

Here, the dismissal effectively prevents Petitioner from refiling due to the expiration of the one-year limitations period, 28 U.S.C. § 2255(f), making it “tantamount to a dismissal with prejudice.” *Justice v. United States*, 6 F.3d 1474, 1482 n.15 (11th Cir. 1993) (per curiam). A dismissal with prejudice is warranted based on Petitioner’s clear record of delay.

Since his release in August 2025, Petitioner has taken no steps to prosecute this case: He failed to notify the court of his release, did not provide a forwarding address, and did not respond to a direct order to indicate whether he intended to pursue his petition. This action cannot proceed without Petitioner’s participation, and his sustained inaction confirms his lack of interest in prosecuting his petition and demonstrates a clear record of delay.

The court also has considered lesser sanctions and has reasonably concluded they would be ineffective and would unduly prejudice Respondent. See *Abreu-Velez v. Bd. of Regents of Univ. Sys. of Ga.*, 248 F. App’x 116, 118 (11th Cir. 2007) (per curiam). Imposing lesser measures would neither secure Petitioner’s participation nor advance the case toward resolution, while continuing delay would increase the burden on Respondent and the court.

Petitioner’s post-release conduct has impeded the progress of this litigation and undermined the effective administration of justice. See *Young v. City of Palm Bay*, 358 F.3d 859, 864 (11th Cir. 2004) (“A district court must be able to exercise its managerial power to maintain control over its docket. This power is necessary for the court to administer effective justice and prevent congestion.” (citation omitted)).

Accordingly, dismissal with prejudice is the appropriate and necessary sanction. Based on the foregoing, it is ORDERED that Petitioner’s 28 U.S.C. § 2255 motion (Doc. # 1) is DISMISSED with prejudice. Final Judgment will be entered separately. DONE this 8th day of December, 2025.
/s/ W. Keith Watkins UNITED STATES DISTRICT JUDGE

