

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
GEORGIA

Gabriel Garcia Hernandez v. Warden, FCI Jesup

Hernandez · No. 2:25-cv-90 · Decided December 22, 2025

SUMMARY

A United States magistrate judge recommends granting the respondent’s unopposed motion to dismiss Gabriel Garcia Hernandez’s 28 U.S.C. § 2241 petition. The recommendation is based on Hernandez’s failure to respond to the motion to dismiss and a show-cause order, and calls for dismissal without prejudice, closure of the case, and denial of leave to appeal in forma pauperis.

CASE DETAILS

COURT	United States District Court for the Southern District of Georgia
WRITING FOR THE COURT	United States Magistrate Judge
JURISDICTION	United States District Court for the Southern District of Georgia
DECIDED	December 22, 2025
DOCKET	2:25-cv-90
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner brought a 28 U.S.C. § 2241 habeas petition. After Respondent moved to dismiss and the court ordered Petitioner to respond or show cause, Petitioner did neither. The magistrate judge issued a Report and Recommendation recommending dismissal without prejudice for failure to follow court orders and denial of leave to appeal in forma pauperis.
STANDARD OF REVIEW	A district court may dismiss for failure to prosecute under Federal Rule of Civil Procedure 41(b) and its inherent authority to manage its docket. Dismissal without prejudice for failure to prosecute is reviewed under a more discretionary standard than dismissal with prejudice; denial of in forma pauperis status on appeal turns on whether the appeal would be taken in good faith under an objective standard.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Gabriel Garcia Hernandez v. Warden, FCI Jesup

TOPICS

federal habeas corpus

motions to dismiss

sanctions

appellate procedure

civil procedure

PRACTICE AREAS

federal habeas corpus

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the petition should be dismissed without prejudice because Hernandez failed to respond to Respondent's motion to dismiss and failed to comply with the court's show-cause order.
2. Whether Hernandez should be denied leave to appeal in forma pauperis because any appeal would not be taken in good faith.

HOLDINGS

1. The magistrate judge recommended granting Respondent's motion to dismiss as unopposed and dismissing Hernandez's § 2241 petition without prejudice because Hernandez failed to prosecute the action and comply with the court's orders after receiving notice of the consequences.
2. The magistrate judge recommended denying Hernandez leave to appeal in forma pauperis because, based on his failure to comply with court orders and respond to the motion, there were no nonfrivolous issues to raise on appeal.

KEY QUOTATIONS

“even without affording notice of its intention to do so.” (370 U.S. at 633)

“power to dismiss is an inherent aspect of its authority to enforce its orders and ensure prompt disposition of lawsuits.”

“sanction . . . to be utilized only in extreme situations”

“without arguable merit either in law or fact.”

FACTUAL BACKGROUND

Hernandez filed a § 2241 petition alleging that the Bureau of Prisons would not remove a detainer. Respondent moved to dismiss, arguing that Hernandez had not exhausted administrative remedies and was ineligible to earn credits under the First Step Act. Hernandez failed to respond to the motion or to a subsequent order directing him to show cause by October 6, 2025, despite being warned of the consequences.

PROCEDURAL HISTORY

Hernandez filed a § 2241 petition alleging that the Bureau of Prisons would not remove his detainer. Respondent moved to dismiss, asserting failure to exhaust administrative remedies and ineligibility to earn First Step Act credits. After Hernandez failed to respond, the court issued a show-cause order warning that the motion could be

granted as unopposed and the petition dismissed. Hernandez again failed to respond, leading to this Report and Recommendation.

DISPOSITION

other

CASES CITED

- Link v. Wabash R.R. Co., 370 U.S. 626 (1962)
- Coleman v. St. Lucie Cnty. Jail, 433 F. App'x 716, 718-19 (11th Cir. 2011)
- Betty K Agencies, Ltd. v. M/V MONADA, 432 F.3d 1333, 1337 (11th Cir. 2005)
- Sanders v. Barrett, No. 05-12660, 2005 WL 2640979, at *1 (11th Cir. Oct. 17, 2005)
- Kilgo v. Ricks, 983 F.2d 189, 192 (11th Cir. 1993)
- Brown v. Tallahassee Police Dep't, 205 F. App'x 802, 802-03 (11th Cir. 2006)
- Jones v. Graham, 709 F.2d 1457, 1458 (11th Cir. 1983)
- Thomas v. Montgomery Cnty. Bd. of Educ., 170 F. App'x 623, 625-26 (11th Cir. 2006)
- Morewitz v. West of Eng. Ship Owners Mut. Prot. & Indem. Ass'n (Lux.), 62 F.3d 1356, 1366 (11th Cir. 1995)
- Taylor v. Spaziano, 251 F. App'x 616, 619 (11th Cir. 2007)
- Busch v. County of Volusia, 189 F.R.D. 687, 691 (M.D. Fla. 1999)
- Coppedge v. United States, 369 U.S. 438, 445 (1962)
- Neitzke v. Williams, 490 U.S. 319, 327 (1989)
- Carroll v. Gross, 984 F.2d 392, 393 (11th Cir. 1993)
- Moore v. Bargstedt, 203 F. App'x 321, 323 (11th Cir. 2006)
- Bilal v. Driver, 251 F.3d 1346, 1349 (11th Cir. 2001)
- Brown v. United States, Nos. 407CV085, 403CR001, 2009 WL 307872, at *1-2 (S.D. Ga. Feb. 9, 2009)
- Harrigan v. Metro Dade Police Dep't Station #4, 977 F.3d 1185, 1192-93 (11th Cir. 2020)