

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Benito Julian Luna v. B. Philips

Luna v. Philips · No. 2:24-cv-1686-JDP (P) · Decided March 24, 2025

SUMMARY

The United States District Court for the Eastern District of California orders habeas petitioner Benito Julian Luna to show cause why his case should not be dismissed. The court states that Luna failed to file an amended petition after being granted additional time and warns that failure to respond within twenty-one days will result in dismissal for failure to state a claim, failure to prosecute, and failure to comply with a court order.

CASE DETAILS

|                       |                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                  |
| WRITING FOR THE COURT | Jeremy D. Peterson                                                                                                                   |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                  |
| DECIDED               | March 24, 2025                                                                                                                       |
| DOCKET                | 2:24-cv-1686-JDP (P)                                                                                                                 |
| DISPOSITION           | other                                                                                                                                |
| PROCEDURAL POSTURE    | The court issued an order to show cause after petitioner failed to file an amended federal habeas petition by the extended deadline. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                      |
| PARTIES               | Benito Julian Luna v. B. Philips                                                                                                     |

TOPICS

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

PRACTICE AREAS

- federal habeas corpus
- civil procedure

QUESTIONS PRESENTED

- Whether the court may dismiss a case sua sponte for failure to prosecute or failure to comply with a court order or applicable rules.

2. Whether petitioner should be required to show cause why the habeas case should not be dismissed and to file an amended petition within twenty-one days.

## HOLDINGS

1. A court may dismiss a case under Federal Rule of Civil Procedure 41(b), including sua sponte in appropriate circumstances, when a petitioner fails to prosecute or comply with court orders or local rules.
2. Before dismissing the case, the court may give petitioner a final opportunity to explain why dismissal should not occur and require petitioner to file an amended habeas petition within a specified period.

## KEY QUOTATIONS

*“The court may dismiss a case based on petitioner’s failure to prosecute or failure to comply with its orders or local rules.” (at 1)*

*“Petitioner’s failure to respond to this order will constitute a failure to comply with a court order and will result in dismissal of this case.” (at 1)*

## FACTUAL BACKGROUND

The court determined that petitioner’s habeas petition failed to state a claim and granted leave to amend. Although petitioner received a sixty-day extension, he did not file an amended petition or otherwise respond after the extended deadline expired.

## PROCEDURAL HISTORY

The court previously notified petitioner that his petition failed to state a claim and allowed him thirty days to amend. After granting petitioner a sixty-day extension, the court issued this order because the deadline passed without an amended petition or other response.

## DISPOSITION

other

## CASES CITED

- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Pagtalungan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 BENITO JULIAN LUNA, Case No. 2:24-cv-1686-JDP (P) 12 Petitioner, 13  
v. ORDER TO SHOW CAUSE 14 B. PHILIPS, 15 Respondent. 16 17 On November 20, 2024, the  
court notified petitioner that his petition failed to state a 18 claim. ECF No. 6.

The court granted petitioner thirty days to file an amended petition. Id. 19 Petitioner then requested a sixty-day extension of time to file an amended petition, which the 20 court granted on January 6, 2025. ECF No. 8. That deadline has since passed, and petitioner has 21 not filed an amended petition or otherwise responded. 22 To manage its docket effectively, the court imposes deadlines and requires litigants to 23 meet those deadlines.

The court may dismiss a case based on petitioner's failure to prosecute or 24 failure to comply with its orders or local rules. See Fed. R. Civ. P. 41; Hells Canyon Pres. 25 Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (“[T]he consensus among our 26 sister circuits, with which we agree, is that courts may dismiss under Rule 41(b) sua sponte, at 27 least under certain circumstances.”).

Involuntary dismissal is a harsh penalty, but the court has a 28 duty to administer justice expeditiously and avoid needless burden for the parties. See 1 | Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002); Fed. R. Civ. P. 1. 2 Petitioner will be given a final opportunity to explain why the court should not dismiss his 3 | case for failure to file an amended petition.

Petitioner's failure to respond to this order will 4 | constitute a failure to comply with a court order and will result in dismissal of this case. 5 | Accordingly, petitioner must show cause within twenty-one days of the date of entry of this order 6 | why the court should not dismiss his case for failure to state a claim, failure to prosecute, and 7 | failure to comply with a court order.

Should petitioner wish to continue with this lawsuit, he shall 8 | also file, within twenty-one days, an amended petition for writ of habeas corpus. 9 10 IT IS SO ORDERED. ( ie - Dated: \_ March 21, 2025 q——— 12 JEREMY D. PETERSON B UNITED STATES MAGISTRATE JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28