

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.

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