

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PRECEDENTIAL VALUE	nonprecedential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)