

**UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
CALIFORNIA**

**Joseph Minh McReynolds v. Federal Bureau of Prisons**

McReynolds · No. 2:25-cv-01362-MWC-KES · Decided June 9, 2025

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**OPINION**

Joseph Minh McReynolds v. Federal Bureau of Prisons

PER CURIAM.

1 JS-6 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 JOSEPH MINH MCREYNOLDS, Case No. 2:25-cv-01362-MWC-KES 12 Petitioner,  
ORDER DISMISSING ACTION

13 v.

WITHOUT PREJUDICE FOR LACK

14 FEDERAL BUREAU OF PRISONS, OF PROSECUTION

15 Respondent. 16

17 18 I.

19 BACKGROUND

20 Joseph Minh McReynolds (“Petitioner”) filed a pro se petition for writ of 21 habeas corpus  
under 28 U.S.C. § 2241 (“Petition” at Dkt. 1) in the United States 22 District Court for the District  
of Arizona. The Petition alleged that Petitioner was 23 imprisoned pursuant to a conviction in U.S.  
District Court for the District of 24 Arizona, case no. 2:18-cr-1170-GMS, and it challenged the  
Federal Bureau of 25 Prison’s (“BOP”) calculation of time credits, arguing that Petitioner was  
entitled to 26 an additional “235 days of presentence custody credits.” (Id. at 1, 4.) 27 Petitioner  
signed the Petition and dated it January 23, 2025. (Id. at 9.) The 28 1 return mailing address listed  
on the Petition was the Federal Correctional 2 Institution (“FCI”) in Lompoc, California. (Id. at 1.)  
3 On February 11, 2025, the Arizona court transferred the Petition to this 4 Court, the United  
States District Court for the Central District of California, 5 because Petitioner was imprisoned  
within this district in California. (Dkt. 4.) 6 On February 18, 2025, the Clerk of this Court issued a  
letter telling 7 Petitioner to either (1) pay the filing fee of \$5.00, or (2) file a request for leave to 8  
proceed without prepayment of the filing fee. (Dkt. 6.) The Clerk instructed 9 Petitioner to do one  
of these things within thirty (30) days. (Id.) The Clerk sent 10 this letter to Petitioner at FCI  
Lompoc. (Id.) 11 On April 16, 2025, the Court noted that “Petitioner may not have received 12 the  
Clerk’s letter, because public records indicate that he was released from BOP 13 custody before  
the letter was sent.” (Dkt. 9 at 2.) The online BOP Inmate Locator 14 indicated that Petitioner was

released from custody on or around January 23, 2025. 15 (Id. (citing <https://www.bop.gov/inmateloc/> (last visited Apr. 15, 2025))). “On 16 January 27, 2025, Petitioner filed a notice of change of address in his Arizona 17 criminal case, which listed his mailing address as: 1122 Gardner Ave., Las Cruces, 18 New Mexico, 88001.” (Id. (citing *United States v. McReynolds*, No. 2:18-cr- 19 01170-GMS-1 (D. Ariz.) (notice at Dkt. 173))). 20 The Court ordered the Clerk to update Petitioner’s mailing address to the 21 Las Cruces address listed above. (Id.) The Court also ordered Petitioner to (1) pay 22 the \$5 filing fee; (2) file a Request to Proceed without Prepayment of Filing Fees 23 with Declaration in Support (Form CV-60); or (3) file a Notice of Dismissal. (Id.) 24 Petitioner was required to take one of these actions on or before May 16, 2025. 25 (Id.) The Court informed Petitioner that “[f]ailure to timely respond to this order 26 may result in dismissal of the Petition for lack of prosecution.” (Id.) 27 The Clerk was instructed to mail both the Court’s order and the filing fee 28 letter (Dkt. 6) to Petitioner’s updated Las Cruces address. (Id.) On April 21, 2025, 1 an order referring the matter to the Magistrate Judge that was mailed to Petitioner 2 at FCI Lompoc (Dkt. 8) was returned to the Court. (Dkt. 10.) No mail sent to the 3 Las Cruces address has been returned. 4 As of the date of this order, the Court has not received any further filings 5 from Petitioner. 6 II.

## 7 LEGAL STANDARD

8 A district court may dismiss an action for failure to prosecute, failure to 9 follow court orders, or failure to comply with the federal or local rules. See Fed. 10 R. Civ. P. 41(b); *Link v. Wabash R. Co.*, 370 U.S. 626, 629-30 (1962); *Ghazali v. 11 Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam). Central District of California 12 Local Rule 41-1 provides, “Civil suits which have been pending for an 13 unreasonable period of time without any action having been taken therein may, 14 after notice, be dismissed for want of prosecution.”<sup>1</sup> Local Rule 41-6 provides: 15 A party proceeding pro se must keep the Court and all other parties 16 informed of the party’s current address as well as any telephone 17 number and email address. If a Court order or other mail served on a 18 pro se plaintiff at his address of record is returned by the Postal 19 Service as undeliverable and the pro se party has not filed a notice of 20 change of address within 14 days of the service date of the order or 21 other Court document, the Court may dismiss the action with or 22 without prejudice for failure to prosecute. 23 L.R. 41-6. 24 The Court has discretion to dismiss the action with or without prejudice. 25 26 1 The Local Rules of the U.S. District Court for the Central District of 27 California are available online at: <https://www.cacd.uscourts.gov/court-procedures/local-rules>. 28 1 See Fed. R. Civ. P. 41(b) (“[u]nless the dismissal order states otherwise,” or certain 2 exceptions apply, a dismissal pursuant to Federal Rule of Civil Procedure 41(b) 3 “operates as an adjudication on the merits”); Local Rule 41-2 (“[u]nless the Court 4 provides otherwise, any dismissal pursuant to [Local Rule] 41-1 shall be without 5 prejudice”); *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1385 (9th Cir. 1996) (“Dismissal 6 with prejudice and default on counterclaims, for willful and inexcusable failure to 7 prosecute, are proper exercises of

discretion under Federal Rules of Civil

8 Procedure 41(b), 16(f), and the inherent power of the court.”).

9 In determining whether to dismiss a case for failure to prosecute or failure to 10 comply with court orders, the Ninth Circuit has instructed district courts to 11 consider the following five factors: (1) the public’s interest in expeditious 12 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of 13 prejudice to the defendants; (4) the availability of less drastic sanctions; and (5) the 14 public policy favoring disposition of cases on their merits. In *re* 15 Phenylpropanolamine (PPA) Prods. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 16 2006). The test is not “mechanical,” but provides a “non-exhaustive list of things” 17 to “think about.” *Valley Eng’rs v. Elec. Eng’g Co.*, 158 F.3d 1051, 1057 (9th Cir. 18 1998). 19 III.

## 20 DISCUSSION

21 Here, the first two factors favor dismissal. The first factor—the public’s 22 interest in the expeditious resolution of litigation—“always favors dismissal.” 23 *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). The second factor— 24 the Court’s need to manage its docket— favors dismissal here because Petitioner’s 25 “noncompliance has caused [this] action to come to a complete halt, thereby 26 allowing [him] to control the pace of the docket rather than the Court.” *Id.* 27 (internal quotations marks omitted). 28 The third factor—prejudice to Respondent—weighs in favor of dismissal, 1 although perhaps not as strongly as some of the other factors. Because Petitioner 2 did not pay the appropriate filing fee, Respondent has never been served and has 3 not appeared in this action. See *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 4 2002) (“We have previously recognized that pendency of a lawsuit is not 5 sufficiently prejudicial in and of itself to warrant dismissal.”); *Hunter v. Sandoval*,

6 No. 17-cv-09257-CJC-SHK, 2018 U.S. Dist. LEXIS 210543 at \*5, 2018 WL

7 6570870 at \*2 (C.D. Cal. Dec. 12, 2018) (finding no prejudice to a defendant who 8 had not yet been served). On the other hand, a rebuttable presumption of prejudice 9 to the defendants arises when a plaintiff unreasonably delays prosecution of an 10 action, *In re Eisen*, 31 F.3d 1447, 1452-53 (9th Cir. 1994), and unnecessary delay 11 “inherently increases the risk that witnesses’ memories will fade and evidence will 12 become stale.” *Pagtalunan*, 291 F.3d at 643. 13 The fourth factor—availability of less drastic sanctions—favors dismissal. 14 The Court’s prior orders warned Petitioner that failure to respond might result in a 15 dismissal of this action. (Dkt. 9.) See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 16 (9th Cir. 1992) (“a district court’s warning to a party that his failure to obey the 17 court’s order will result in dismissal can satisfy the ‘consideration of alternatives’ 18 requirement”) (citation omitted). 19 The fifth factor—public policy favoring a disposition of an action on its 20 merits—arguably weighs against dismissal here. *Pagtalunan*, 291 F.3d at 643. 21 However, the effect of this factor is somewhat mitigated by the fact that Petitioner 22 is no longer in federal custody. (Dkt. 9 at 2.) 23 Given that the enumerated factors largely support dismissal, this action will 24 be dismissed pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 41- 25 1. Considering all of the circumstances, and in particular given that

Petitioner is 26 proceeding pro se, the dismissal shall be without prejudice. 27 28 1 IV.

2 CONCLUSION

3 IT IS THEREFORE ORDERED that the Petition is dismissed without 4 | prejudice for failure to  
prosecute. (ncn W/ (BU 6 | DATED: June 9, 2025

7 MICHELLE WILLIAMS COURT

UNITED STATES DISTRICT JUDGE

8 Presented by: 9 Tram E. Seotts

KAREN E. SCOTT

11 | UNITED STATES MAGISTRATE JUDGE

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