

SEP 07 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RONALD BUZZARD, Jr.,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>TIMOTHY WENGLER,</p> <p>Respondent - Appellee.</p>
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No. 08-35009

D.C. No. CV-06-01653-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted August 23, 2010**

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Washington state prisoner Ronald Buzzard, Jr. appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition for failure to comply with a court order. We have jurisdiction under 28 U.S.C. § 2253. We

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review for abuse of discretion, *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion when it dismissed Buzzard's habeas petition without prejudice because he failed to comply with the court's order to timely file an amended petition. *See Pagtalunan*, 291 F.3d at 641-44 (setting forth five factors to be weighed in determining whether to dismiss a claim for failure to comply with a court order); *see also Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir. 1992) (the district court has inherent authority to manage its docket). The record indicates that Buzzard had several opportunities to comply, but did not do so even after being warned that failure to submit an amended petition would result in dismissal. *See Pagtalunan*, 291 F.3d at 641-44.

Buzzard's remaining contentions regarding the certified issue are unpersuasive.

We construe Buzzard's arguments regarding uncertified issues as a motion to expand the certificate of appealability, and we deny the motion. *See* 9th Cir. R. 22-1(e); *see also Hiivala v. Wood*, 195 F.3d 1098, 1104 (9th Cir. 1999) (per curiam).

All pending motions are denied.

AFFIRMED.