

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 19-7513-CJC(E) Date November 16, 2022

Title FAHIM ANTHONY MULTANI v. PATRICK COVELLO, WARDEN

Present: The Honorable Charles F. Eick, United States Magistrate Judge

Valencia Munroe

None

None

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: (IN CHAMBERS)

On December 5, 2019, the Court issued an “Order Granting Stay,” granting a stay of the Petition pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir.), cert. denied, 548 U.S. 1042 (2003), overruled on other grounds, Robbins v. Carey, 481 F.3d 1143 (9th Cir. 2007). The “Order Granting Stay” ordered Petitioner to attempt promptly to exhaust state court remedies with respect to his unexhausted claims. The “Order Granting Stay” further ordered Petitioner either to inform the Court promptly if a state court granted relief which mooted this federal action or to file a motion to lift the stay and to amend the Petition within thirty days of the exhaustion of Petitioner’s unexhausted claims.

As of October 23, 2020, Petitioner had not informed the Court that this action was moot and had not filed any motion to lift the stay. Accordingly, on that date, the Court issued a Minute Order ordering Petitioner to show cause why the Petition should not be dismissed for failure to prosecute and failure to obey a court order. On November 23, 2020, Petitioner filed a “Response to Order to Show Cause, etc.,” indicating that, on November 2, 2020, Petitioner had filed a habeas corpus petition in the California Court of Appeal, in case number B308587, which was pending.

The Court takes judicial notice of the dockets of the California Court of Appeal and the California Supreme Court.¹ The Court of Appeal’s docket in case number BA308587 shows that, on October 8, 2021, the court, inter alia, issued an order to show cause concerning certain of Petitioner’s claims and ordered the Los Angeles County Superior Court to schedule a hearing, while denying the petition with respect to Petitioner’s remaining claims. The California Supreme Court’s docket shows that Petitioner filed a habeas corpus petition in that court on June 1, 2021, in case number S269055, which that Court denied on April 20, 2022.

¹ See Porter v. Ollison, 620 F.3d 952, 954-55 n.1 (9th Cir. 2020).

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As of the date of this Order, Petitioner has not informed this Court that the action is moot and has not filed any motion to lift the stay.

Accordingly, Petitioner is ordered to show cause in writing, within fourteen (14) days of the date of this Order, why the Petition should not be dismissed for failure to prosecute and failure to obey a court order. Petitioner shall attempt to show such cause by filing a declaration or declarations, signed under penalty of perjury. Failure to file timely such a declaration or declarations may result in the dismissal of this action.

cc: Judge Carney
Petitioner
Counsel for Respondent

Initials of Deputy Clerk VMUN