

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. ED CV 16-2176-ODW (AS) Date December 27, 2016

Title Cody Aaron Rosbrugh b. Joe Lizarraga, Warden

Present: The Honorable Alka Sagar, United States Magistrate Judge

Alma Felix

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Petitioner

Attorneys Present for Respondent:

N/A

N/A

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY THIS ACTION SHOULD NOT BE DISMISSED

On July 12, 2016, Petitioner Cody Aaron Rosbrugh filed a Petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, in the Eastern District of California (“Petition”) (Docket Entry No. 2). On August 23, 2016, the Petition was transferred to the Central District of California. (Docket Entry Nos. 1, 3). On October 14, 2016, the Court issued an Order directing Petitioner to file, by no later than later than November 14, 2016, a First Amended Petition on the Central District of California form setting forth “clearly each claim which Petitioner intends to raise in this proceeding and the factual bases for each claim.” (Docket Entry No. 7).

The Court’s October 14, 2016 Order stated the following: “Petitioner is advised that his failure to comply with the above requirements may result in a recommendation that this action be dismissed for failure to comply with the Court’s Order and/or failure to prosecute pursuant to Fed.R.Civ.P. 41(b).” Id. at 2.

As of today, however, Petitioner has failed to respond to the Court’s October 14, 2016 Order.

Therefore, Petitioner is **ORDERED TO SHOW CAUSE**, within **thirty (30) days** of the date of this Order, or by no later than **January 27, 2017** why this action should not be dismissed for his failure to comply with Court orders and/or for his failure to prosecute pursuant to Fed.R.Civ.P. 41(b). Petitioner may discharge this Order by filing a First Amended Petition that complies with the Court’s October 14, 2016 Order or a statement setting forth why he is unable to do so. A copy of the Court’s October 14, 2016 Order is

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attached.

Petitioner may also request a voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a). A Notice of Dismissal form is attached for Petitioner’s convenience. However, Petitioner is advised that any dismissed claims may be later subject to the statute of limitations under 28 U.S.C. § 2244(d)(1), as amended by AEDPA, which provides that “[a] 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State Court.”

Petitioner is expressly warned that the failure to file a timely file a response to this Order will result in a recommendation that this action be dismissed with prejudice for his failure to comply with Court orders and/or for his failure to prosecute. See Fed.R. Civ. P. 41(b).

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