

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WAYNE JEFFREY NELSON,

Petitioner,

v.

Case No. 22-cv-10632

GEORGE STEPHENSON,

Respondent.

OPINION & ORDER DISMISSING CASE WITHOUT PREJUDICE

Petitioner Wayne Jeffrey Nelson, acting *pro se*, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. (ECF No. 1.) As of the date of this order, Petitioner has not paid the filing fee for his petition, nor requested permission to proceed without prepaying the filing fee, despite the court's previous order to correct this deficiency. (ECF No. 3.) Accordingly, the court will dismiss this case without prejudice.

DISCUSSION

On March 14, 2022, Petitioner filed a habeas petition, challenging a 1984 Wayne County, Michigan sentence for convictions of murder and armed robbery. (ECF No. 1, PageID.1.) He failed to list any grounds for relief. (Id. at PageID.5–10) Additionally, though his cover letter to the Clerk of the Court seemed to indicate that Petitioner enclosed with his petition a motion to hold his case in abeyance, the court has not received the motion. (See Id. at PageID.16.)

On March 28, 2022, Magistrate Judge David R. Grand ordered Petitioner to either pay the nominal filing fee of \$5.00 for this action or apply for leave to proceed *in*

forma pauperis within 21 days of his order. (ECF No. 3.) Petitioner has not responded in any fashion to Magistrate Judge Grand's order.

A party's failure to prosecute a case or to comply with a court order is a basis for dismissing a civil action. See Fed. R. Civ. P. 41(b) (Involuntary Dismissal); E.D. Mich. LR 41.2 (Dismissal for Lack of Subject Matter Jurisdiction or Failure to Prosecute). In appropriate circumstances, "a District Court may dismiss a complaint for failure to prosecute even without affording notice of its intention to do so or providing an adversary hearing before acting." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 633 (1962).

As noted above, Petitioner has not paid the nominal filing fee for this case. He also has not applied for permission to proceed *in forma pauperis* or asked for an extension of time to comply with Magistrate Judge Grand's order. Accordingly,

IT IS ORDERED that Petitioner's petition for writ of habeas corpus (ECF No. 1) is DISMISSED WITHOUT PREJUDICE for want of prosecution and for failure to comply with Magistrate Judge Grand's deficiency order. This case is now closed.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 19, 2023

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 19, 2023, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522