

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARTIN PAUL PRIOR,
Petitioners,
v.
TONYA ANDREWS, et al.
Respondents.

Case No. 1:25-cv-01131-JLT-EPG-HC
ORDER VACATING OCTOBER 21, 2025
SCHEDULING ORDER (ECF No. 13)
ORDER TO RESPOND TO FIRST
AMENDED PETITION
ORDER SETTING BRIEFING SCHEDULE

Petitioner, represented by counsel, is a federal immigration detainee proceeding with a petition of writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On September 5, 2025, Petitioner filed a petition for writ of habeas corpus and motion for temporary restraining order (“TRO”). (ECF Nos. 1, 2.) On September 18, 2025, the Court denied the motion for TRO without prejudice to renewal in the form of a motion for preliminary injunction. (ECF No. 12.) As no motion for preliminary injunction had been filed, on October 21, 2025, the Court issued a briefing schedule with a response to the petition due within sixty days. (ECF No. 13.)

On December 15, 2025, Petitioner filed a first amended petition (“FAP”). (ECF No. 14.) Accordingly, pursuant to Rule 4 of the Rules Governing Section 2254 Cases,¹ the Court
HEREBY ORDERS:

¹ The Rules Governing Section 2254 Cases may apply to § 2241 habeas petitions. See Rule 1(b) of the Rules Governing Section 2254 Cases.

- 1 1. The October 21, 2025 scheduling order (ECF No. 13) is VACATED.
- 2 2. Within **THIRTY (30) days** of the date of service of this order, Respondent
3 SHALL FILE a RESPONSE to the FAP. See Rule 4, Rules Governing Section
4 2254 Cases; Cluchette v. Rushen, 770 F.2d 1469, 1473–74 (9th Cir. 1985) (court
5 has discretion to fix time for filing a response).² A Response can be made by
6 filing one of the following:
 - 7 A. AN ANSWER addressing the merits of the FAP. Any argument by
8 Respondent that Petitioner has procedurally defaulted a claim
9 SHALL BE MADE in the ANSWER but must also address the
10 merits of the claim asserted.
 - 11 B. A MOTION TO DISMISS the FAP.
- 12 2. Within **THIRTY (30) days** after service of this order, Respondent SHALL FILE
13 any and all transcripts or other documents necessary for the resolution of the
14 issues presented in the FAP. See Rule 5(c), Rules Governing Section 2254 Cases.
15 **The transcripts or other documents shall only be filed electronically and, to**
16 **the extent practicable, provided in Optical Character Recognition (“OCR”)**
17 **format. Respondent shall not file a hard copy of the transcripts or other**
18 **documents unless so ordered by this Court.**
- 19 3. If Respondent files an Answer to the FAP, Petitioner MAY FILE a Traverse
20 within **THIRTY (30) days** of the date of service of Respondent’s Answer. If no
21 Traverse is filed, the FAP and Answer are deemed submitted at the expiration of
22 the thirty days.
- 23 4. If Respondent files a Motion to Dismiss, Petitioner SHALL FILE an Opposition
24 or Statement of Non-Opposition within **FOURTEEN (14) days** of the date of
25 service of Respondent’s Motion. Any Reply to an Opposition to the Motion to
26 Dismiss SHALL be filed within **SEVEN (7) days** after the Opposition has been

27 ² See also Schwarz v. Meinberg, 478 F. App’x 394, 395 (9th Cir. 2012) (rejecting petitioner’s contention
28 that district court erred by permitting a time limit exceeding the limits specified in 28 U.S.C. § 2243).

1 filed in CM/ECF. The Motion to Dismiss will be deemed submitted when the time
2 to reply has expired.

3 All motions shall be submitted on the record and briefs filed without oral argument unless
4 otherwise ordered by the Court. These dates should be considered as firm by all parties. If any
5 party requires additional time, it should file a motion for amendment of the schedule before a
6 deadline has passed and explain in detail why the party cannot comply with this schedule.
7 Extensions of time will only be granted upon a showing of good cause. All provisions of Local
8 Rule 110 are applicable to this order.

9
10 IT IS SO ORDERED.

11 Dated: December 16, 2025

12 /s/ Eric P. Gray
13 UNITED STATES MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28