

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Vandervere v. Tassler

Vandervere · No. 26-CV-374 · Decided April 2, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin reviewed Timothy G. Vandervere’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court found that dismissal was not plainly warranted and ordered the respondent to answer or move to dismiss within 60 days, with subsequent briefing deadlines.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Byron B. Conway
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	April 2, 2026
DOCKET	26-CV-374
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. On Rule 4 screening, the district court determined that it could not conclude the petition was plainly meritless or otherwise barred and ordered the respondent to answer or move to dismiss.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court must dismiss a petition if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. At the screening stage, the court determined only that it could not make that determination.
PRECEDENTIAL VALUE	Unknown; the order is identified as a district-court per curiam opinion, and no precedential-status designation appears in the text.
PARTIES	Timothy G. Vandervere v. Joy Tassler

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- motions to dismiss
- civil procedure

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

QUESTIONS PRESENTED

1. Whether the petition should be dismissed at the Rule 4 screening stage because it plainly appears that Vandervere is not entitled to federal habeas relief.
2. Whether the petition plausibly alleges exhaustion of state remedies, avoids the bar on successive federal habeas petitions, satisfies the applicable limitations period, and contains at least one cognizable claim sufficient to require a response.

HOLDINGS

1. The petition could not be dismissed at screening because it was not plainly apparent that Vandervere was not entitled to relief.
2. The respondent was ordered either to answer the petition and file a brief in opposition or to move to dismiss it within 60 days.

KEY QUOTATIONS

“If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.”

FACTUAL BACKGROUND

Timothy G. Vandervere is incarcerated pursuant to a judgment of a Wisconsin Circuit Court. He represented that he had pursued relief in the Wisconsin Court of Appeals and Wisconsin Supreme Court, had not previously sought federal habeas relief, and had filed his federal petition within one year after the Wisconsin Supreme Court denied review.

PROCEDURAL HISTORY

Vandervere was incarcerated pursuant to a Wisconsin Circuit Court judgment and represented that he had pursued relief in the Wisconsin Court of Appeals and Wisconsin Supreme Court. He filed this federal habeas petition, and the district court ordered service on the Wisconsin Attorney General, directed the respondent to answer or move to dismiss within 60 days, and established briefing deadlines.

DISPOSITION

other

CASES CITED

- Anderson v. Litscher, 281 F.3d 672, 675 (7th Cir. 2002)

OPINION

Vandervere

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

TIMOTHY G. VANDERVERE,

Petitioner, v. Case No. 26-CV-374

JOY TASSLER,

Respondent.

ORDER ON THE PETITION FOR A WRIT OF HABEAS CORPUS

Timothy G. Vandervere who is incarcerated pursuant to the judgment of a Wisconsin Circuit Court, filed a petition for a writ of habeas corpus. Rule 4 of the Rules Governing Section 2254 Cases states: If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order. Vandervere has pursued relief in the Wisconsin Court of Appeals and Wisconsin Supreme Court (ECF No. 1 at 4) and therefore has plausibly exhausted his state court remedies. See 28 U.S.C. § 2254(b)(1)(A). There is no indication that he has previously sought federal habeas relief. See 28 U.S.C. § 2244(b). His petition contains at least one plausibly cognizable claim. And he represents that he filed his petition within one year of the Wisconsin Supreme Court denying his request for review. (ECF No. 1 at 4); see also 28 U.S.C. § 2244(d); Sup. Ct. R. 13; *Anderson v. Litscher*, 281 F.3d 672, 675 (7th Cir. 2002). Consequently, the court is unable to say that it is plainly apparent that the petitioner is not entitled to relief. The respondent shall answer the petition. The Clerk of Court shall promptly serve the respondent by service of a copy of the petition and this order upon the State of Wisconsin Attorney General. No later than 60 days after this order, the respondent shall answer the petition in accordance with Rule 5 of the Rules Governing Section 2254 Cases and file a brief in opposition. The petitioner may reply no later than 21 days thereafter. Alternatively, the respondent may move to dismiss the petition no later than 60 days after this order. In the event the respondent moves to dismiss the petition, the petitioner shall respond to that motion no later than 28 days thereafter. The respondent may then reply no later than 28 days thereafter. Unless the court determines that additional proceedings are necessary, this shall conclude the briefing. The court will then resolve the petition on the written record. SO ORDERED. Dated at Green Bay, Wisconsin this 2nd day of April, 2026. s/ Byron B. Conway
BYRON B. CONWAY
United States District Judge

