

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Chades v. Hill

No. 19-70365, United States Court of Appeals for the Ninth Circuit (September 30, 2020)

SUMMARY

The Ninth Circuit denied Karen Chades's application for leave to file a second or successive habeas corpus petition under 28 U.S.C. § 2244, holding that it lacked authority to authorize the petition because her claim (ineffective assistance of trial counsel) had been presented in a prior application and did not meet any statutory exception. The court rejected her argument that AEDPA's restrictions on successive petitions are unconstitutional as applied, citing **Felker v. Turpin** for the proposition that the statute does not suspend the writ but merely regulates repetitious requests for relief. The concurrence noted that the court lacked jurisdiction under § 2244(b)(3) because the petition did not seek to present a new claim under § 2244(b)(2), and declined to transfer the petition to the district court.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Bybee; Mary M. Schroeder; Jay S. Bybee; Daniel P. Collins
JURISDICTION	Federal
DECIDED	September 30, 2020
DOCKET	19-70365
DISPOSITION	dismissed
PROCEDURAL POSTURE	Application for leave to file a second or successive habeas corpus petition pursuant to 28 U.S.C. § 2244(b)(1)
PRECEDENTIAL VALUE	Published
PARTIES	Karen Denise Chades v. Molly Hill, Acting Warden

TOPICS

- habeas corpus
- criminal procedure
- ineffective assistance
- due process
- constitutional law

PRACTICE AREAS

- Habeas Corpus
- Criminal Law

QUESTIONS PRESENTED

1. Whether the court has authority under AEDPA to authorize a second or successive habeas corpus application when the claim was presented in a prior application and does not meet the statutory exceptions.
2. Whether the court can entertain the request directly under the Constitution despite the statutory bar.
3. Whether a single member of the panel can construe the request as a habeas corpus application and transfer it to a district court.

HOLDINGS

1. The court has no authority under AEDPA to authorize the application because the claim was presented in a prior application and does not meet the statutory exceptions under § 2244(b)(2).
2. The court declines to set aside the strictures of § 2244 because the statute does not impermissibly preclude judicial review but rather acts as a mere regulation of repetitious requests for relief.
3. Regardless of whether transfer is properly done by a panel or an individual judge, each member of the panel declines to transfer here.

KEY QUOTATIONS

“Chades concedes that she is seeking to file a second-or-successive federal habeas corpus application. She further concedes that her application does not meet the statutory exceptions under which a second-or-successive claim can be reviewed. We have no authority under AEDPA to authorize Chades to file a second-or-successive application.” (5)

“We likewise conclude that the statute does not impermissibly preclude judicial review of an inmate's constitutional challenges, but rather acts as a mere regulation of repetitious requests for relief.” (6)

FACTUAL BACKGROUND

Chades was convicted of first-degree murder for strangling a man she claimed attempted to sexually assault her. She was convicted in 2004. Her trial counsel did not present evidence of PTSD from childhood sexual abuse. After her conviction was affirmed, she filed a federal habeas petition in 2007, arguing ineffective assistance of trial counsel for failing to investigate PTSD. The district court denied the claim on the merits. She later filed a state habeas petition in 2016 with new evidence, which was denied.

PROCEDURAL HISTORY

Chades was convicted of first-degree murder in California state court in 2004. Her conviction was affirmed on appeal, and the California Supreme Court denied review. She filed a federal habeas petition in 2007, which was denied by the district court in 2009, and this court affirmed in 2011. She later filed a state habeas petition in 2016, which was denied. She now seeks to file a second or successive federal habeas petition.

DISPOSITION

dismissed

CASES CITED

- Felker v. Turpin, 518 U.S. 651 (1996)
- Cooper v. Calderon, 274 F.3d 1270 (9th Cir. 2001)
- Young v. Pfeiffer, 933 F.3d 1123 (9th Cir. 2019) (per curiam)
- Alley v. Bell, 392 F.3d 822 (6th Cir. 2004)
- Graham v. Johnson, 168 F.3d 762 (5th Cir. 1999)
- Bannister v. Bowersox, 128 F.3d 621 (8th Cir. 1997)
- Zimmerman v. Spears, 565 F.2d 310 (5th Cir. 1977)
- In re Bowles, 935 F.3d 1210 (11th Cir. 2019)
- In re Davis, 557 U.S. 952 (2009) (mem.)
- Ex parte Hull, 312 U.S. 546 (1941)
- Ex parte Grossman, 267 U.S. 87 (1925)
- Strickland v. Washington, 466 U.S. 668 (1984)
- People v. Chades, 2006 WL 2875453 (Cal. Ct. App. Oct. 11, 2006)
- Chades v. Lattimore, 2009 WL 657006 (C.D. Cal. Mar. 10, 2009)
- Chades ex rel. Gallegos v. Lattimore, 459 F. App'x 596 (9th Cir. 2011)
- Orona v. United States, 826 F.3d 1196 (9th Cir. 2016)
- Ezell v. United States, 778 F.3d 762 (9th Cir. 2015)
- Arreola-Arreola v. Ashcroft, 383 F.3d 956 (9th Cir. 2004)
- Morales-Izquierdo v. Gonzales, 486 F.3d 484 (9th Cir. 2007) (en banc)