

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Hung Duong Nguon v. James S. Hill

Nguon · No. 2:24-cv-02297-PA (SK) · Decided April 22, 2025

SUMMARY

The United States District Court for the Central District of California revised its order accepting the Report and Recommendation to grant the respondent's motion to dismiss Hung Duong Nguon's amended habeas petition under 28 U.S.C. § 2254. The court held that the petition was untimely, rejected arguments concerning equitable tolling, *Miller v. Alabama*, a subsequent resentencing denial, and newly discovered evidence, and ratified the prior judgment dismissing the action with prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Percy Anderson
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 22, 2025
DOCKET	2:24-cv-02297-PA (SK)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed and accepted a magistrate judge's Report and Recommendation recommending dismissal of a first amended petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court considered Petitioner's objections, although untimely, and again granted Respondent's motion to dismiss.
STANDARD OF REVIEW	The district court independently reviewed the Report and Recommendation and the Petitioner's objections under 28 U.S.C. § 636. The court applied the one-year federal habeas limitations period and the standards governing equitable tolling and delayed accrual.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Hung Duong Nguon v. James S. Hill, Warden

TOPICS

federal habeas corpus

statute of limitations

post-conviction relief

sentence modification

cruel and unusual punishment

PRACTICE AREAS

federal habeas corpus

post-conviction relief

constitutional law

QUESTIONS PRESENTED

1. Whether Petitioner's objections established a basis for equitable tolling of the federal habeas limitations period.
2. Whether Petitioner's belief that he would be released in 2005 excused the delay in filing his 2024 petition.
3. Whether *Miller v. Alabama* provided a delayed limitations starting date that made the petition timely.
4. Whether the denial of resentencing relief constituted a new judgment restarting the limitations period for challenging the original 1997 conviction.
5. Whether 28 U.S.C. § 2244(d)(1)(D) delayed accrual based on allegedly new evidence concerning Petitioner's dangerousness.

HOLDINGS

1. Petitioner was not entitled to equitable tolling because he did not show that he had been pursuing his rights diligently or that an extraordinary circumstance prevented timely filing.
2. The denial of resentencing relief does not constitute a new judgment that restarts the federal habeas limitations period for challenging the original conviction when the proceeding does not result in a new judgment.
3. Even assuming that *Miller v. Alabama* could defer the limitations starting date, the petition would still be untimely by ten years.
4. Section 2244(d)(1)(D) did not delay accrual because Petitioner's argument was factually unfounded: the record showed that he received life with the possibility of parole plus three years, not life without parole or death.

KEY QUOTATIONS

“Petitioner has not made any such showing, nor is it apparent how he could, given that he filed this Petition more than 25 years after his conviction became final.”

“Even if such a state court judgment exists, it would not be a new judgment that would have restarted the statute of limitations for Petitioner to challenge his 1997 conviction.”

“Under 28 U.S.C. § 2244(d)(1)(D), the limitations starting date may be delayed until “the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.””

FACTUAL BACKGROUND

Petitioner challenged a 1997 state conviction and sentence in a federal habeas petition filed in 2024, more than 25 years after the conviction became final. He was sentenced to life with the possibility of parole plus three years, not life without parole or death. He argued that equitable tolling, a later state resentencing ruling, the *Miller v. Alabama* decision, and allegedly new evidence delayed or restarted the limitations period.

PROCEDURAL HISTORY

Nguon filed a federal habeas petition in 2024 challenging his 1997 conviction and sentence. A Report and Recommendation recommended dismissal as untimely, and the district court entered judgment dismissing the action with prejudice on March 31, 2025. In this revised order, the court considered the Petitioner's objections, found that they did not alter the Report and Recommendation's conclusions, accepted the recommendation, ratified the prior judgment, and ratified its denial of a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- *Smith v. Davis*, 953 F.3d 582, 588 (9th Cir. 2020) (en banc)
- *Miller v. Alabama*, *Miller v. Alabama*, 567 U.S. 460 (2012)
- *Cole v. Sullivan*, 480 F. Supp. 3d 1089, 1097 (C.D. Cal. 2020)
- *Nguyen v. Acevedo*, 2023 WL 8478535, at *2 (E.D. Cal. Dec. 6, 2023)
- *Hernandez v. Koenig*, 2023 WL 7169573, at *5 (C.D. Cal. Sept. 11, 2023)
- *Branham v. Montana*, 996 F.3d 959, 968 (9th Cir. 2021)