

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW
HAMPSHIRE

Robert Towle v. Warden, New Hampshire State Prison

Towle · No. 15-cv-117-SM-AJ · Decided March 9, 2026

SUMMARY

The United States District Court for the District of New Hampshire recommends denying Robert Towle’s motions to amend his 28 U.S.C. § 2254 habeas petition to add claims concerning an alleged sexually violent predator designation. The recommendation concludes that Towle was not in custody pursuant to an SVP judgment, that related claims concerning sentence execution or confinement conditions could instead potentially arise under 28 U.S.C. § 2241 or 42 U.S.C. § 1983, and that New Hampshire constitutional claims are not cognizable in federal habeas review. The recommendation is without prejudice to future claims if Towle is later designated and civilly committed as an SVP.

CASE DETAILS

COURT	United States District Court for the District of New Hampshire
WRITING FOR THE COURT	Andrea K. Johnstone
JURISDICTION	United States District Court for the District of New Hampshire
DECIDED	March 9, 2026
DOCKET	15-cv-117-SM-AJ
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on the respondent's objections to the petitioner's motions to amend a pending 28 U.S.C. § 2254 habeas petition.
STANDARD OF REVIEW	The court applied the § 2254 Rule 4 screening standard to determine whether the proposed amendments would be futile. Amendments are generally freely allowed under Federal Rule of Civil Procedure 15(a) (2), but leave may be denied for futility.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Robert Towle v. Warden, New Hampshire State Prison

TOPICS

- federal habeas corpus
- post-conviction relief
- motion to amend
- pleadings
- civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

prisoners rights

civil procedure

QUESTIONS PRESENTED

1. Whether Towle could amend his pending § 2254 petition to challenge an alleged SVP designation when he was not in custody pursuant to an SVP judgment or designation.
2. Whether claims challenging the manner of execution or conditions of Towle's confinement could be added to a § 2254 petition challenging the validity of his criminal conviction and sentence.
3. Whether claims arising under the New Hampshire Constitution could support federal habeas relief.

HOLDINGS

1. The proposed SVP claims could not be added to the § 2254 petition because Towle was incarcerated pursuant to his criminal judgment, not pursuant to a state-court judgment adjudicating him to be a sexually violent predator.
2. Claims challenging the manner in which the DOC executes a sentence or the conditions of confinement may be actionable under 28 U.S.C. § 2241 or 42 U.S.C. § 1983, but they could not be added to this § 2254 case.
3. The proposed state constitutional claims could not be added to the federal habeas petition because federal habeas relief does not lie for errors of state law.

KEY QUOTATIONS

“Mr. Towle thus fails to meet the custody requirement in § 2254(a) with regard to the claims he seeks to add to his § 2254 Petition.” (Discussion § III)

“For the foregoing reasons, the court recommends that the district judge deny Mr. Towle’s motions to amend his 28 U.S.C. § 2254 petition in this case (Doc. Nos. 218, 221).” (Conclusion)

FACTUAL BACKGROUND

Towle is serving a 57-to-114-year New Hampshire prison sentence for aggravated felonious sexual assault and related offenses. Department of Corrections personnel told him that his convictions qualified him to be considered an SVP and that an evaluation could occur near his maximum release date, but the DOC and state courts acknowledged that he had not been adjudicated or classified as an SVP. Towle sought to amend his pending federal criminal-conviction habeas case to add constitutional and state-law claims concerning the alleged SVP designation and related reputational stigma.

PROCEDURAL HISTORY

Towle filed a § 2254 petition challenging his New Hampshire criminal convictions and sentence. While twenty-two claims had been dismissed and an earlier recommendation concerning the remaining claims was pending, Towle moved to add claims alleging that the New Hampshire Department of Corrections had improperly designated him as a sexually violent predator. The First Circuit transferred a filing styled as a second habeas

petition to the district court for construction as a possible motion to amend. The magistrate judge recommended denying both motions as futile, without prejudice to pursuing appropriate relief under § 2241 or § 1983, or a future § 2254 petition if a state court later adjudicated him an SVP.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the district judge deny the motions to amend without prejudice to Towle's ability to seek relief under § 2241 or § 1983 as appropriate, or to assert a future § 2254 claim if he is later determined to be an SVP by a state court.

CASES CITED

- Towle v. Edmark, No. 25-1518 (1st Cir. July 15, 2025)
- State v. Towle, No. 214-2008-CR-00289; 214-2009-CR-00096, -00097, -00099, -00104, -00105, -00106, -00107 (N.H. Super. Ct., Coos Cty.)
- Towle v. Comm'r, N.H. Dep't of Corr., Case No. 2023-0125 (N.H. Jan. 10, 2024)
- Towle v. Edmark, No. 217-2024-cv-00570 (N.H. Super. Ct., Merrimack Cty.)
- Towle v. Edmark, Case No. 2024-0593 (N.H. Nov. 22, 2024)
- Mayle v. Felix, 545 U.S. 644, 655 (2005)
- Wolusky v. N. N.H. Corr. Facility Warden, No. 22-cv-345-SE-AJ, 2023 U.S. Dist. LEXIS 192426, at *3, 2023 WL 7024360, at *1 (D.N.H. Sept. 27, 2023)
- United States ex rel. Gagne v. City of Worcester, 565 F.3d 40, 48 (1st Cir. 2009)
- Vega v. Massachusetts, Civil Action No. 16-12237-PBS, 2016 U.S. Dist. LEXIS 161848, at *8, 2016 WL 697778, at *3 (D. Mass. Nov. 22, 2016)
- Swarthout v. Cooke, 562 U.S. 216, 219 (2011)
- Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016)