

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Glenn Cornwell, Jr. v. Warden, San Quentin State Prison

Cornwell · No. 2:06-cv-0705 TLN CSK DP · Decided September 29, 2025

SUMMARY

The United States District Court for the Eastern District of California considers petitioner Glenn Cornwell Jr.’s unopposed motion for an evidentiary hearing and request to expand the record in a capital habeas proceeding. The court finds the motion untimely but grants an extension nunc pro tunc under Federal Rule of Civil Procedure 6(b) based on excusable neglect. The court then addresses the standards governing an evidentiary hearing under AEDPA and determines that a hearing is justified regarding Claim 3, which alleges ineffective assistance of trial counsel during the penalty phase.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 29, 2025
DOCKET	2:06-cv-0705 TLN CSK DP
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner moved for an evidentiary hearing and to expand the record in a pending capital habeas corpus proceeding under 28 U.S.C. § 2254. The respondent did not oppose the motion.
STANDARD OF REVIEW	The court applied an abuse-of-discretion framework to the Rule 6(b) excusable-neglect determination and considered AEDPA limitations on federal evidentiary hearings under 28 U.S.C. §§ 2254(d) and 2254(e) (2).
PRECEDENTIAL VALUE	Unknown
PARTIES	Glenn Cornwell, Jr. v. Warden, San Quentin State Prison

TOPICS

- federal habeas corpus
- post-conviction relief
- ineffective assistance
- discovery dispute
- criminal procedure

PRACTICE AREAS

Federal habeas corpus

Capital punishment

Post-conviction relief

Ineffective assistance of counsel

Civil procedure

QUESTIONS PRESENTED

1. Whether the motion for an evidentiary hearing was untimely despite the absence of a formal discovery scheduling order.
2. Whether petitioner established excusable neglect and good cause under Federal Rule of Civil Procedure 6(b) to obtain an extension of time to file the evidentiary-hearing motion.
3. Whether petitioner was entitled to a federal evidentiary hearing on the ineffective-assistance-of-trial-counsel subclaims in Claim 3.
4. Whether petitioner was entitled to an evidentiary hearing on Claim 34's ineffective-assistance-of-appellate-counsel and ineffective-assistance-of-state-habeas-counsel prongs.
5. Whether petitioner could expand the federal habeas record with the exhibits attached to his motion.

HOLDINGS

1. The absence of a formal Rule 16 scheduling order did not eliminate the deadline established by the court's prior order, which tied the filing of the evidentiary-hearing motion to completion of the relevant discovery.
2. Petitioner established excusable neglect and good cause, warranting a nunc pro tunc extension of time to file the evidentiary-hearing motion.
3. Petitioner is entitled to an evidentiary hearing on ineffective-assistance-of-trial-counsel subclaims 3(a) through 3(g), concerning the penalty-phase investigation, mitigation evidence, expert assistance, and related counsel performance.
4. Petitioner is not entitled on the present motion to an evidentiary hearing concerning ineffective assistance of appellate counsel, and he failed to identify authority or specific factual disputes warranting a hearing concerning ineffective assistance of state habeas counsel; however, he may file a second motion addressing the habeas-counsel prong within 30 days.
5. Petitioner's unopposed request to expand the record with the identified exhibits is granted, subject to respondent's ability to challenge admissibility at the evidentiary hearing.

KEY QUOTATIONS

“The Court finds that the March 25, 2021 order implicitly tied the filing of the motion for evidentiary hearing to the completion of discovery related to the two pending discovery motions” (at 12)

“The district court has discretion to determine whether a party’s failure to act was excusable neglect.” (at 13)

“This case involves at least two Townsend factors: “the state factual determination is not fairly supported by the record as a whole” and “the fact-finding procedure employed by the state court was not adequate to afford a full and fair hearing.”” (at 17)

FACTUAL BACKGROUND

Cornwell was convicted of murder and robbery on April 21, 1995, and sentenced to death, along with a consecutive determinate term. His federal habeas petition includes ineffective-assistance claims concerning trial counsel's investigation and presentation of mitigating evidence during the penalty phase. The state habeas proceedings summarily denied the relevant claims, and the federal court found that the record warranted further factual development concerning Claim 3.

PROCEDURAL HISTORY

Cornwell was convicted of murder and robbery and sentenced to death in California state court. In the federal habeas proceeding, the district court previously found that Claim 3, alleging ineffective assistance of trial counsel during the penalty phase, satisfied 28 U.S.C. § 2254(d), while denying or deferring other claims and procedural-default issues. Discovery was later authorized in part, but Cornwell did not file his evidentiary-hearing motion until December 2024. The court found the motion untimely but granted nunc pro tunc relief under Federal Rule of Civil Procedure 6(b), granted an evidentiary hearing on Claim 3 subclaims (a) through (g) pending confirmation of consent to magistrate-judge jurisdiction, denied the motion as to Claim 34, and granted leave to file a second motion concerning the ineffective-assistance-of-habeas-counsel prong of Claim 34.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The parties must file election forms within 21 days. If they consent to magistrate-judge jurisdiction, a status and scheduling conference will be held; petitioner may file a second motion concerning the habeas-counsel prong of Claim 34 within 30 days.

CASES CITED

- Rubin v. Jenkusky, 661 F. App'x 606, 610-11 (10th Cir. 2015)
- Pincay v. Andrews, 389 F.3d 853, 858 (9th Cir. 2004)
- Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership, 507 U.S. 380, 388, 394-95 (1993)
- Mendez v. Knowles, 556 F.3d 757, 765 (9th Cir. 2009)
- Anh Van Thai v. County of Los Angeles, 2021 WL 1610057, at *2 (S.D. Cal. Apr. 26, 2021)
- Lemoge v. United States, 587 F.3d 1188, 1192 (9th Cir. 2009)
- Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253, 1261 (9th Cir. 2010)
- Schriro v. Landrigan, 550 U.S. 465, 473-74 (2007)
- Shinn v. Ramirez, 596 U.S. 366, 381-82 (2022)
- Williams v. Taylor, 529 U.S. 420, 432-37 (2000)
- Insyxiengmay v. Morgan, 403 F.3d 657, 670 (9th Cir. 2005)
- Earp v. Ornoski, 431 F.3d 1158, 1167 (9th Cir. 2005)

- *Townsend v. Sain*, 372 U.S. 293, 312-13 (1963)
- *Keeney v. Tamayo-Reyes*, 504 U.S. 1 (1992)
- *Taylor v. Maddox*, 366 F.3d 992, 999-1001 (9th Cir. 2004), cert. denied, 543 U.S. 1038 (2004)
- *Fisher v. Roe*, 263 F.3d 906, 913 (9th Cir. 2001)
- *Payton v. Woodford*, 346 F.3d 1204, 1218 n.18 (9th Cir. 2003) (en banc)
- *Caro v. Calderon*, 165 F.3d 1223, 1227 (9th Cir. 1999)
- *Wallace v. Stewart*, 184 F.3d 1112, 1117-18 & n.5 (9th Cir. 1999), cert. denied, 528 U.S. 1105 (2000)
- *Stanley v. Schriro*, 598 F.3d 612, 624 (9th Cir. 2010)
- *Hendricks v. Calderon*, 70 F.3d 1032, 1043-44 (9th Cir. 1995), cert. denied, 517 U.S. 1111 (1996)
- *Martinez v. Ryan*, 566 U.S. 1 (2012)
- *In re Miller*, 17 Cal. 2d 734, 735 (1941)
- *In re Robbins*, 18 Cal. 4th 770, 780 (1998)
- *In re Clark*, 5 Cal. 4th 750, 767-68, 797 (1993)
- *Lopez v. Attorney General for Nevada*, 845 F. App'x 549, 554 n.3 (9th Cir. 2021)