

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, TALLAHASSEE DIVISION

McMillian v. Dixon

McMillian · No. 4:25cv181-TKW-HTC · Decided January 23, 2026

SUMMARY

This Report and Recommendation addresses Anthony McMillian’s 28 U.S.C. § 2254 petition challenging his Florida state-court convictions and sentence. The magistrate judge recommends granting the motion to dismiss because the petition was filed after the AEDPA limitations period expired, dismissing the petition with prejudice, denying a certificate of appealability, and closing the case.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Tallahassee Division
WRITING FOR THE COURT	Hope Thai Cannon
JURISDICTION	United States District Court for the Northern District of Florida, Tallahassee Division
DECIDED	January 23, 2026
DOCKET	4:25cv181-TKW-HTC
PROCEDURAL POSTURE	Report and recommendation on the respondent's motion to dismiss a 28 U.S.C. § 2254 petition as untimely.
STANDARD OF REVIEW	The report applies the AEDPA statute-of-limitations framework under 28 U.S.C. § 2244(d), including the rule that a properly filed state post-conviction motion tolls the limitations period only while the period remains unexpired. It also applies the standard for an evidentiary hearing under Schriro v. Landrigan and the substantial-showing standard for a certificate of appealability under 28 U.S.C. § 2253(c)(2) and Slack v. McDaniel.
PARTIES	Anthony McMillian v. Ricky D. Dixon

QUESTIONS PRESENTED

- Whether the First District Court of Appeal's elaborated written opinion gave the Florida Supreme Court discretionary jurisdiction to review the state-court judgment.

2. When McMillian's state judgment became final for purposes of 28 U.S.C. § 2244(d)(1)(A).
3. Whether McMillian's April 13, 2022, Rule 3.850 motion tolled the AEDPA limitations period.
4. Whether an evidentiary hearing was warranted.
5. Whether a certificate of appealability should issue.

HOLDINGS

1. An elaborated written opinion that expressly addresses questions of law within the four corners of the opinion gives the Florida Supreme Court discretionary jurisdiction under article V, section 3(b)(3), even without an express and direct conflict with another decision.
2. Because McMillian could have sought discretionary review in the Florida Supreme Court but did not, his judgment became final on December 16, 2020, when the time for seeking that review expired.
3. The federal petition was untimely because the AEDPA one-year limitations period expired on December 16, 2021, before McMillian filed his April 13, 2022, state post-conviction motion; the later motion therefore could not toll or revive the limitations period.

FACTUAL BACKGROUND

On December 4, 2018, a Florida jury found McMillian guilty of four child-sex offenses, and on January 16, 2019, the state circuit court sentenced him to life imprisonment. The First District Court of Appeal affirmed in a written opinion on November 16, 2020, and issued its mandate on December 7, 2020. McMillian did not seek Florida Supreme Court review, filed his first Rule 3.850 motion on April 13, 2022, and filed the federal § 2254 petition on April 21, 2025.

PROCEDURAL HISTORY

A Florida circuit-court jury convicted McMillian of four child-sex offenses and the circuit court imposed a life sentence. The First District Court of Appeal affirmed in a written opinion, and McMillian did not seek review in the Florida Supreme Court or the United States Supreme Court. He later filed a Florida Rule of Criminal Procedure 3.850 motion, which was denied after the AEDPA limitations period had expired, and then filed this federal habeas petition. The magistrate judge recommended granting the motion to dismiss, dismissing the petition with prejudice as untimely, denying a certificate of appealability, and closing the file.

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