

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Kirk Wayne McBride, Sr. v. Bobby Lumpkin

McBride · No. 4:24-CV-00041 · Decided November 24, 2025

SUMMARY

The United States District Court for the Southern District of Texas dismissed Kirk Wayne McBride, Sr.’s federal habeas corpus petition with prejudice. The court held that his claim concerning lost good-time credits was barred by the AEDPA statute of limitations and that his claim concerning credit for time served lacked merit. The court denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	November 24, 2025
DOCKET	4:24-CV-00041
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal habeas corpus petition by a Texas state prisoner challenging the loss of good-time credit and the calculation of credit for time served. The district court dismissed the petition with prejudice and denied a certificate of appealability.
STANDARD OF REVIEW	A federal habeas petition is subject to the limitations period in 28 U.S.C. § 2244(d)(1), with statutory tolling under § 2244(d)(2) and possible equitable tolling in rare and exceptional circumstances. A certificate of appealability on a procedural dismissal requires a showing that reasonable jurists could debate both the validity of the constitutional claim and the procedural ruling.
PRECEDENTIAL VALUE	Unknown; memorandum and order from a federal district court with no reporter citation.
PARTIES	Kirk Wayne McBride, Sr. v. Bobby Lumpkin

TOPICS

federal habeas corpus

statute of limitations

post-conviction relief

due process

civil procedure

PRACTICE AREAS

federal habeas corpus

state post-conviction relief

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constitutional law

QUESTIONS PRESENTED

1. Whether McBride's claim challenging the loss of good-time credit was barred by the AEDPA statute of limitations.
2. Whether McBride was entitled to equitable tolling of the federal habeas limitations period.
3. Whether McBride was entitled to relief on his claim that he was not properly credited with time served.
4. Whether McBride was entitled to a certificate of appealability.

HOLDINGS

1. McBride's claim challenging the loss of good-time credits was time-barred because the federal limitations period expired before he filed his state habeas application and federal petition.
2. McBride was not entitled to equitable tolling because he did not show that the State actively misled him or that some extraordinary circumstance prevented him from timely asserting his rights.
3. McBride was not entitled to relief on his time-served-credit claim because the evidence established that he had in fact received credit for the time served, and he presented no contrary evidence.
4. No certificate of appealability should issue because reasonable jurists would not debate the conclusion that the good-time-credit claim was time-barred or that the time-served claim lacked merit.

KEY QUOTATIONS

"The AEDPA statute of limitations is not jurisdictional, and is subject to equitable tolling in rare and exceptional circumstances." (2)

"When a district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." (4)

FACTUAL BACKGROUND

McBride was incarcerated in the custody of the Texas Department of Criminal Justice. He challenged the loss of 180 days of good-time credit and asserted that he was not properly credited for time spent in custody on pre-revocation warrants pending parole revocation. He acknowledged awareness of the loss of good-time credit by September 17, 2020, and the record showed that he filed his state habeas application on October 6, 2023. Evidence submitted in the state proceeding established that he had received credit for the time served.

PROCEDURAL HISTORY

McBride filed a federal petition for a writ of habeas corpus. The respondent filed an answer, and McBride filed a response. The court considered the petition, briefing, and the record, including evidence from McBride's state habeas proceeding, and dismissed the petition with prejudice.

DISPOSITION

dismissed

CASES CITED

- Fierro v. Cockrell, 294 F.3d 674, 679 (5th Cir. 2002)
- Davis v. Johnson, 158 F.3d 806, 810-11 (5th Cir. 1998)
- Lookingbill v. Cockrell, 293 F.3d 256, 264 (5th Cir. 2002)
- Felder v. Johnson, 204 F.3d 168, 171 (5th Cir.)
- United States v. Flores, 981 F.2d 231, 236 (5th Cir. 1993)
- Alexander v. Johnson, 211 F.3d 895, 898 (5th Cir. 2000)
- Whitehead v. Johnson, 157 F.3d 384, 388 (5th Cir. 1998)
- Hill v. Johnson, 114 F.3d 78, 82 (5th Cir. 1997)
- United States v. Kimler, 150 F.3d 429, 431 (5th Cir. 1998)
- Hernandez v. Johnson, 213 F.3d 243, 248 (5th Cir. 2000)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

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