

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Marcus Albinus Joseph v. Warden T. Wallace

Joseph v. Wallace · No. 8:26-693-RMG · Decided March 17, 2026

SUMMARY

The United States District Court for the District of South Carolina adopts the Magistrate Judge’s Report and Recommendation and dismisses Marcus Albinus Joseph’s habeas petition without prejudice. The court construes the petition as arising under 28 U.S.C. § 2254 and concludes that it is an unauthorized successive petition because Joseph did not obtain appellate authorization. The court denies a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Richard Mark Gergel
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	March 17, 2026
DOCKET	8:26-693-RMG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Review of a Magistrate Judge's Report and Recommendation recommending dismissal without prejudice of a successive habeas petition filed without authorization from the Court of Appeals.
STANDARD OF REVIEW	The District Court conducts de novo review of portions of a Report and Recommendation to which specific objections are made; absent timely specific objections, review is limited to clear error.
PRECEDENTIAL VALUE	Unpublished district court order; generally nonprecedential.
PARTIES	Marcus Albinus Joseph v. Warden T. Wallace

TOPICS

- federal habeas corpus
- successive petitions
- post-conviction relief
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petition filed under 28 U.S.C. § 2241 should be construed as a petition under 28 U.S.C. § 2254.
2. Whether the petition should be dismissed as an unauthorized successive habeas petition because Petitioner had not obtained authorization from the Court of Appeals.
3. Whether Petitioner was entitled to a certificate of appealability.

HOLDINGS

1. Because the petition challenged Petitioner's state-court conviction and there was no immigration proceeding or detainer basis supporting relief under § 2241, the Court construed the petition as one brought under 28 U.S.C. § 2254.
2. The petition was barred as a successive habeas petition because Petitioner had not first obtained authorization from the Court of Appeals to file it.
3. A certificate of appealability was denied because Petitioner did not make the required substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“The Court finds that the Magistrate Judge ably summarized the factual and legal issues in this matter and correctly concluded that this petition should be construed as a petition under § 2254 and that it is barred as an unauthorized successive petition.” (3)

FACTUAL BACKGROUND

Marcus Albinus Joseph is incarcerated at Kirkland Correctional Institution and is serving a life sentence after a murder conviction. He filed the present habeas petition under 28 U.S.C. § 2241, claiming that he was improperly held on an immigration detainer. The Magistrate Judge found no immigration proceeding and determined that the petition was an effort to bypass the successive-petition bar applicable to challenges to his state conviction. The petition was identified as Joseph's seventh habeas petition challenging that conviction since 1994.

PROCEDURAL HISTORY

Petitioner filed a petition under 28 U.S.C. § 2241, asserting that he was being held improperly on an immigration detainer. The Magistrate Judge concluded that no immigration proceeding was involved, construed the petition as one under 28 U.S.C. § 2254, and recommended dismissal because it was an unauthorized successive petition. Petitioner was given fourteen days to object but filed no timely objections. The District Court adopted the Report and Recommendation and dismissed the petition without requiring an answer or return.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270-71 (1976)
- Cruz v. Beto, 405 U.S. 319 (1972)
- Haines v. Kerner, 404 U.S. 519 (1972)
- Weller v. Dep't of Social Services, 901 F.2d 387 (4th Cir. 1990)
- Miller-El v. Cockrell, 537 U.S. 322, 336 (2003)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)
- Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001)

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