

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

Gary Scott Selway v. Florida Commission on Offender Review and
Florida Department of Corrections

Selway · No. 4:25-cv-34-AW-MAF · Decided May 19, 2026

SUMMARY

The United States District Court for the Northern District of Florida denied Gary Scott Selway's federal habeas petition challenging the Florida Commission on Offender Review's authority to revoke his conditional release after his sentence expiration date. The court held that Selway's petition presented a state-law issue and that he had not established a violation of federal law or an unforeseeable interpretation of state law. The court adopted the magistrate judge's report and recommendation, denied a certificate of appealability, denied related motions, and directed the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Tallahassee Division
WRITING FOR THE COURT	Allen Winsor
JURISDICTION	United States District Court for the Northern District of Florida, Tallahassee Division
DECIDED	May 19, 2026
DOCKET	4:25-cv-34-AW-MAF
DISPOSITION	denied
PROCEDURAL POSTURE	Federal habeas corpus action under 28 U.S.C. § 2254 challenging the State's authority to revoke Petitioner's conditional release after the stated expiration date of his sentence. The magistrate judge recommended denial, Petitioner objected, and the district court conducted de novo review of the objections.
STANDARD OF REVIEW	De novo review of the issues raised in Petitioner's objections to the magistrate judge's report and recommendation. Federal habeas relief is limited to violations of the Constitution, laws, or treaties of the United States.

PRECEDENTIAL VALUE	Unpublished district court final order; precedential status is unknown in the source metadata.
PARTIES	Gary Scott Selway v. Florida Commission on Offender Review, Florida Department of Corrections

TOPICS

federal habeas corpus post-conviction relief exhaustion of remedies due process administrative law

PRACTICE AREAS

Federal habeas corpus Post-conviction relief Constitutional law Administrative law

QUESTIONS PRESENTED

1. Whether Selway was entitled to federal habeas relief based on the Florida courts' interpretation of state law concerning the effect of a conditional-release warrant on the expiration of his sentence.
2. Whether Selway properly presented and exhausted a federal constitutional claim.
3. Whether the state court's interpretation of Florida law was so unexpected and indefensible as to violate federal constitutional rights.

HOLDINGS

1. Federal habeas relief was unavailable because Selway's petition challenged the Commission's jurisdiction and lawful authority under state law and did not properly present a violation of the Constitution, laws, or treaties of the United States.
2. Even assuming Selway properly raised and exhausted a federal claim, he failed to show that the state court's interpretation of Florida law violated his federal rights.

KEY QUOTATIONS

“But he cannot change the nature of his claim in his reply. His petition did not frame his challenge as one based on federal law.” (Final Order)

“Regardless, even if Selway had properly raised (and exhausted) the federal claim, he has not shown that the state court’s interpretation of state law created a violation of Selway’s federal rights.” (Final Order)

FACTUAL BACKGROUND

A Florida court sentenced Gary Scott Selway to thirty years in prison, with the sentence set to expire on July 14, 2023. Approximately ten years before that date, Florida placed him on conditional release; after his arrest, the State revoked the release and returned him to prison. Although a warrant for retaking conditional release issued in May 2023, the revocation occurred on July 26, 2023, twelve days after the stated expiration date, and was made effective May 12, 2023. Selway argued that the State lacked authority to revoke his conditional release after his sentence expired.

PROCEDURAL HISTORY

Selway's conditional release was revoked after a warrant had issued before the stated expiration of his sentence, and Florida state courts rejected his challenges to the revocation. Selway then filed a federal habeas petition. The magistrate judge recommended denial; the district court adopted the recommendation, denied the petition, denied a certificate of appealability, denied related motions, and closed the case.

DISPOSITION

denied

CASES CITED

- Swarthout v. Cooke, 562 U.S. 216, 219 (2011)
- Estelle v. McGuire, 502 U.S. 62, 67 (1991)
- Rogers v. Tennessee, 532 U.S. 451, 461 (2001)
- Bouie v. City of Columbia, 378 U.S. 347, 354 (1964)
- Gibbs v. Cochran, 142 So. 2d 276, 277-78 (Fla. 1962)