

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Brian D. Frazier v. Michael Meisner

No. 3:25-cv-00242 (W.D. Wis. Mar. 2, 2026) · No. 3:25-cv-00242 · Decided March 3, 2026

SUMMARY

The court partially granted and partially denied the respondent’s motion to dismiss Brian Frazier’s 28 U.S.C. § 2254 habeas petition as untimely. The court dismissed with prejudice Frazier’s Fourth Amendment and most ineffective-assistance claims, but allowed claims concerning the destruction of bedsheet and blood evidence and postconviction counsel’s failure to question him about the effect of a potential Miranda violation to proceed. The court ordered further briefing on those two remaining claims.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	March 3, 2026
DOCKET	3:25-cv-00242
DISPOSITION	other
PROCEDURAL POSTURE	Federal habeas petitioner challenged state convictions under 28 U.S.C. § 2254. Respondent moved to dismiss the petition as untimely under the one-year statute of limitations in 28 U.S.C. § 2244(d)(1).
STANDARD OF REVIEW	The court applied the federal habeas statute-of-limitations framework under 28 U.S.C. § 2244(d), including claim-by-claim accrual under § 2244(d)(1)(D) and statutory tolling under § 2244(d)(2).
PRECEDENTIAL VALUE	Unknown; district court opinion with no reporter citation
PARTIES	Brian D. Frazier v. Michael Meisner

TOPICS

- federal habeas corpus
- statute of limitations
- post-conviction relief
- due process
- equal protection

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Frazier's Fourth Amendment claims concerning the search warrant, search, and custodial interrogation were timely under 28 U.S.C. § 2244(d)(1).
2. Whether Frazier's ineffective-assistance claims concerning trial counsel and most claims concerning postconviction counsel were timely under § 2244(d)(1).
3. Whether discovery of the destruction of the bedsheet and blood evidence supplied a later factual-predicate date for claims unrelated to the destruction itself.
4. Whether Frazier's Wisconsin motion for DNA testing tolled the federal habeas limitations period.
5. Whether Frazier's later state postconviction motion tolled the limitations period for the claims that the state courts accepted and addressed on the merits.

HOLDINGS

1. The discovery in February 2022 that the bedsheet had been lost or destroyed did not reset the federal habeas limitations period for Frazier's Fourth Amendment and ineffective-assistance claims concerning the search, Miranda issue, and failure to investigate or test evidence, because those claims were based on facts known or discoverable before the destruction was discovered.
2. Frazier's motion for DNA testing under Wis. Stat. § 974.07 did not toll the federal habeas limitations period because it did not directly attack the judgment of conviction.
3. Frazier's later state postconviction motion tolled the federal limitations period for the destruction-of-evidence claims and the claim that postconviction counsel failed to ask whether Frazier would have rejected the plea offer, because the state courts accepted and adjudicated those claims on the merits.

KEY QUOTATIONS

“collateral motions filed after the limitations period has run are “irrelevant,” because they do “not restart” the limitations period after it has run.” (Opinion, statute-of-limitations analysis)

“a request for DNA testing did not attack the judgment of conviction” (Opinion, DNA-testing analysis)

“what subsection (2) does is exclude particular time from the year, not restart that year.” (Opinion, tolling analysis)

FACTUAL BACKGROUND

Frazier pleaded no contest on November 19, 2013, to first-degree sexual assault of a child under 13 and child abuse. He later alleged that trial counsel was ineffective for failing to challenge a search warrant and custodial statements, and that counsel failed to investigate or obtain DNA testing of a blood-stained bedsheet. In September 2021 he sought DNA testing, but learned during a February 2022 hearing that the bedsheet had been lost or destroyed; police testimony indicated that the evidence had been discarded or destroyed in January 2016.

PROCEDURAL HISTORY

Frazier pleaded no contest in Columbia County Circuit Court to first-degree sexual assault of a child under 13 and child abuse. After state postconviction proceedings concerning alleged ineffective assistance and a later motion for DNA testing, the Wisconsin Court of Appeals affirmed denial of his latest postconviction motion and the Wisconsin Supreme Court denied review on January 16, 2025. Frazier filed this federal habeas petition on March 21, 2025. The district court granted respondent's motion to dismiss in part, dismissing the remaining Fourth Amendment and most ineffective-assistance claims with prejudice as untimely, while permitting two claims to proceed and ordering further briefing.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand to a lower court. Frazier may file by April 1, 2026, a supporting brief on the surviving due-process/equal-protection destruction-of-evidence claim and the surviving ineffective-assistance claim concerning postconviction counsel's failure to question him about rejecting the plea offer. Respondent must respond within 60 days after that filing, and Frazier may reply within 30 days thereafter.

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- *State v. Machner*, 92 Wis. 2d 797, 804, 285 N.W.2d 905 (Ct. App. 1979)
- *State v. Frazier*, No. 2023AP418, 2024 WI App 49, 11 N.W.3d 450 (Ct. App. July 11, 2024)
- *State v. Frazier*, No. 2019AP2120-CR, 2021 WI App 36, 960 N.W.2d 630 (Ct. App. Apr. 1, 2021)
- *State v. Frazier*, 2017AP1249-CR, 2018 WI App 62, 384 Wis. 2d 271, 921 N.W.2d 16 (Ct. App. Aug. 2, 2018)
- *Pace v. DiGuglielmo*, 544 U.S. 408, 416 (2005)
- *De Jesus v. Acevedo*, 567 F.3d 941, 943 (7th Cir. 2009)
- *Patterson v. Adkins*, 124 F.4th 1035, 1045-46 (7th Cir. 2025)
- *Price v. Pierce*, 617 F.3d 947, 952-53 (7th Cir. 2010)
- *United States v. Cruz-Rivera*, No. 22-2644, 2023 WL 5955214, at *1 (7th Cir. Sept. 13, 2023)
- *Locke v. Eplett*, No. 22-cv-189, 2022 WL 1156177, at *1 (E.D. Wis. Apr. 19, 2022)
- *Fernandez v. Sternes*, 227 F.3d 977, 978-80 (7th Cir. 2000)
- *Jefferson v. Welborn*, 222 F.3d 286, 289 (7th Cir. 2000)