

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

Milo Rosario v. John Christiansen

Rosario · No. 22-11508 · Decided January 24, 2026

SUMMARY

The United States District Court for the Eastern District of Michigan granted Milo Rosario’s motion for an extension of time to file a state post-conviction motion for relief from judgment. The court granted a 60-day extension, requiring Rosario to file the motion with the Oakland County Circuit Court and to return to federal court within 60 days after completing state post-conviction proceedings if unsuccessful.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Southern Division
WRITING FOR THE COURT	Judith E. Levy
JURISDICTION	United States District Court for the Eastern District of Michigan, Southern Division
DECIDED	January 24, 2026
DOCKET	22-11508
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought an extension of time to file a state post-conviction motion while his federal habeas petition was stayed and held in abeyance.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Milo Rosario v. John Christiansen

TOPICS

- federal habeas corpus
- state post-conviction relief
- post-conviction relief
- civil procedure

PRACTICE AREAS

- federal habeas corpus
- state post-conviction relief

QUESTIONS PRESENTED

1. Whether the federal district court should extend the time for Rosario to file his state post-conviction motion for relief from judgment while his habeas petition remained stayed and held in abeyance.

HOLDINGS

1. A federal district court may extend the stay of a habeas petition, particularly when the respondent does not oppose the extension, and may grant additional time for a petitioner to pursue state post-conviction remedies when extraordinary circumstances prevented timely filing.
2. Rosario was granted a sixty-day extension to file his motion for relief from judgment in the Oakland County Circuit Court.

FACTUAL BACKGROUND

Rosario's federal habeas petition was stayed and held in abeyance so he could exhaust additional claims in the Michigan state courts. During the sixty-day filing period, he was placed in administrative segregation and lacked access to his legal documents and assistance from prisoner paralegals through the Legal Writers Program. He therefore was unable to timely prepare and file his state motion for relief from judgment.

PROCEDURAL HISTORY

Rosario filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court previously granted a stay and held the petition in abeyance to allow exhaustion of additional claims in state court, giving Rosario sixty days to file a state post-conviction motion. Rosario moved for an extension, asserting that administrative segregation, lack of access to legal documents, and lack of assistance from the prison Legal Writers Program prevented timely filing. The court granted a further sixty-day extension and directed Rosario to return to federal court within sixty days after completing state post-conviction proceedings if he did not prevail.

DISPOSITION

other

REMAND INSTRUCTIONS

Rosario must file his post-conviction motion for relief from judgment in the Oakland County Circuit Court within sixty days of the order. If he does not prevail in state court, he must return to federal court within sixty days after completing exhaustion of state post-conviction remedies.

CASES CITED

- *Roberts v. Norris*, 415 F.3d 816, 818 (8th Cir. 2005)
- *Schillereff v. Quarterman*, 304 F. App'x 310, 314 (5th Cir. 2008)
- *Rashidi v. Am. President Lines*, 96 F.3d 124, 128 (5th Cir. 1996)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN
DIVISION Milo Rosario, Petitioner, Case No. 22-11508 v. Judith E. Levy United States District
Judge John Christiansen, Mag. Judge Curtis Ivy, Jr. Respondent.

_____/ OPINION AND ORDER GRANTING PETITIONER'S
MOTION FOR AN EXTENSION OF TIME TO FILE HIS POST- CONVICTION MOTION FOR
RELIEF FROM JUDGMENT WITH THE STATE COURT [15] Petitioner Milo Rosario filed a
pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The Court granted Petitioner's motion to stay and held the petition for a writ of habeas corpus in
abeyance so that Petitioner could exhaust additional claims in the state courts. (ECF No. 14.)
Petitioner was given sixty (60) days to file his post- conviction motion for relief from judgment in
the state court. (Id.) Petitioner has filed a motion for an extension of time to file his post-
conviction motion with the state trial court.

Petitioner claims he was unable to file his post-conviction motion for relief from judgment within
sixty days of this Court's order because he was in administrative segregation during this time and
did not have access to his legal documents to prepare his motion nor was he afforded the
assistance of the Legal Writers Program (prisoner paralegals). (ECF No. 15.)

Petitioner requests an extension of time to file his post-conviction motion with the trial court.
Petitioner is granted a sixty (60) day extension of time to file his motion for relief from judgment
with the state trial court. A federal district court has the power to extend the stay of a habeas
petition, particularly where the respondent does not oppose the extension of the stay.

See, e.g., *Roberts v. Norris*, 415 F.3d 816, 818 (8th Cir. 2005). Petitioner did all that he could
reasonably do to file his state post- conviction motion for relief from judgment on time, but was
"prevented in some extraordinary way" from filing the motion with the state courts on time.
Schillereff v. Quarterman, 304 F. App'x 310, 314 (5th Cir. 2008) (quoting *Rashidi v. Am.*

President Lines, 96 F.3d 124, 128 (5th Cir. 1996)). Accordingly, an extension of time should be
granted to Petitioner. The motion for an extension of time to file a post-conviction motion for
relief from judgment is GRANTED. Petitioner has sixty (60) days from the date of this order to
file his post-conviction motion for relief from judgment with the Oakland County Circuit Court.

Petitioner is still required to return to federal court within sixty (60) days of completing the
exhaustion of state court post-conviction remedies, should he not prevail in the state courts. IT IS
SO ORDERED. Dated: January 24, 2026 s/Judith E. Levy Ann Arbor, Michigan JUDITH E.
LEVY United States District Judge CERTIFICATE OF SERVICE The undersigned certifies that
the foregoing document was served upon counsel of record and any unrepresented parties via the
Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the

Notice of Electronic Filing on January 24, 2026. s/William Barkholz WILLIAM BARKHOLZ
Case Manager

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