

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Josh Reed aka Joshua Alexander Reed v. Warden of Perry
Correctional Institution

Reed · No. 9:24-cv-05978-SAL-MHC · Decided January 15, 2026

SUMMARY

This Report and Recommendation addresses Josh Reed’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 arising from his South Carolina murder and weapons convictions. The magistrate judge recommends granting the respondent’s motion for summary judgment and dismissing the amended petition with prejudice, concluding that the claims are untimely and that one claim is procedurally defaulted, while the remaining claims do not warrant federal habeas relief.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	January 15, 2026
DOCKET	9:24-cv-05978-SAL-MHC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. The respondent moved for summary judgment, and the assigned magistrate judge issued a Report and Recommendation recommending that the motion be granted and the amended petition be dismissed with prejudice.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Federal habeas review of claims adjudicated on the merits is governed by the deferential standards in 28 U.S.C. § 2254(d), and state-court factual findings are presumed correct under § 2254(e)(1). A Report and Recommendation is subject to district-court review under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Josh Reed aka Joshua Alexander Reed v. Warden of Perry Correctional Institution

TOPICS

federal habeas corpus

statute of limitations

post-conviction relief

summary judgment

procedural due process

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Criminal procedure

Civil procedure

QUESTIONS PRESENTED

1. Whether the federal habeas petition was barred by the one-year statute of limitations in 28 U.S.C. § 2244(d)(1).
2. Whether statutory tolling during the state PCR proceedings rendered the federal petition timely under 28 U.S.C. § 2244(d)(2).
3. Whether Petitioner established grounds for equitable tolling based on an institutional transfer and delayed receipt of legal materials.
4. Whether dismissal was also warranted because Ground Four was procedurally defaulted.

HOLDINGS

1. The petition was untimely under 28 U.S.C. § 2244(d)(1). The conviction became final on January 12, 2016, the limitations period ran for 295 days before the PCR application was filed, resumed on July 6, 2022, and expired on September 14, 2022; the federal petition filed in October 2024 was therefore untimely.
2. Equitable tolling was not warranted because Petitioner failed to show that he diligently pursued his rights or that an extraordinary circumstance prevented timely filing.
3. Respondent's motion for summary judgment should be granted and the amended habeas petition should be dismissed with prejudice because the petition was time-barred.

KEY QUOTATIONS

“Accordingly, the undersigned recommends that Respondent’s Motion, ECF No. 20, be GRANTED and that the Petition be DISMISSED with prejudice.”

“To benefit from the doctrine of equitable tolling, Petitioner must show “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way” and prevented timely filing.”

FACTUAL BACKGROUND

Petitioner was convicted by a jury in October 2013 of murder and possession of a weapon during the commission of a violent crime and was sentenced to life imprisonment for murder, with a concurrent five-year

sentence for the weapon offense. His direct appeal was dismissed in an unpublished Anders decision in October 2015. His state PCR application was denied, and the South Carolina Court of Appeals affirmed the denial in March 2022; the remittitur was filed on July 5, 2022. Petitioner did not file his federal habeas petition until October 18, 2024, and attributed the delay in part to an institutional transfer and delayed receipt of legal mail.

PROCEDURAL HISTORY

Petitioner was convicted in South Carolina state court of murder and possession of a weapon during the commission of a violent crime and received a life sentence plus a concurrent five-year sentence. The South Carolina Court of Appeals dismissed his direct appeal in an unpublished Anders decision. After the state PCR court denied relief, the South Carolina Court of Appeals affirmed, and the remittitur was filed on July 5, 2022. Petitioner filed his federal habeas petition on October 18, 2024, and an amended petition on November 19, 2024. Respondent moved for summary judgment, arguing that the petition was untimely and that one claim was procedurally defaulted; the Report and Recommendation recommends dismissal with prejudice on statute-of-limitations grounds.

DISPOSITION

dismissed

CASES CITED

- Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975)
- Anders v. California, 386 U.S. 738 (1967)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Thompson v. Potomac Elec. Power Co., 312 F.3d 645 (4th Cir. 2002)
- Erickson v. Pardus, 551 U.S. 89 (2007)
- United States v. Wilson, 699 F.3d 789 (4th Cir. 2012)
- Weller v. Department of Social Services, 901 F.2d 387 (4th Cir. 1990)
- Breard v. Pruett, 134 F.3d 615 (4th Cir. 1998)
- Evans v. Smith, 220 F.3d 306 (4th Cir. 2000)
- Williams v. Taylor, 529 U.S. 362 (2000)
- Valentino v. Clarke, 972 F.3d 560 (4th Cir. 2020)
- Cullen v. Pinholster, 563 U.S. 170 (2011)
- Blakeley v. Rabon, 221 S.E.2d 767 (S.C. 1976)
- Bostick v. Stevenson, 589 F.3d 160 (4th Cir. 2009)
- Smith v. Murray, 477 U.S. 527 (1986)
- Reed v. Ross, 468 U.S. 1 (1984)
- Coleman v. Thompson, 501 U.S. 722 (1991)
- Teague v. Lane, 489 U.S. 288 (1989)

- Granberry v. Greer, 481 U.S. 129 (1987)
- Lawrence v. Branker, 517 F.3d 700 (4th Cir. 2008)
- Murray v. Carrier, 477 U.S. 478 (1986)
- Turner v. Jabe, 58 F.3d 924 (4th Cir. 1995)
- Harris v. Hutchinson, 209 F.3d 325 (4th Cir. 2000)
- Grant v. Bush, No. 6:14-CV-01313-DCN, 2015 WL 4747104, at *5, *8 (D.S.C. Aug. 11, 2015)
- Taylor v. Lee, 186 F.3d 557 (4th Cir. 1999)
- Crawley v. Catoe, 257 F.3d 395 (4th Cir. 2001)
- Artuz v. Bennett, 531 U.S. 4 (2000)
- Pace v. DiGuglielmo, 544 U.S. 408 (2005)
- Carey v. Saffold, 536 U.S. 214 (2002)
- Evans v. Chavis, 546 U.S. 189 (2006)
- Moore v. Crosby, 321 F.3d 1377 (11th Cir. 2003)
- Hernandez v. Caldwell, 225 F.3d 435 (4th Cir. 2000)
- Holland v. Florida, 560 U.S. 631 (2010)
- Rouse v. Lee, 339 F.3d 238 (4th Cir. 2003)
- Simuel v. Cohen, No. 223CV01447HMHMGB, 2023 WL 8812535, at *6 (D.S.C. Nov. 28, 2023)
- Ayton v. Williams, No. 9:19-CV-03234-DCN-MHC, 2020 WL 13739268, at *6 (D.S.C. Nov. 19, 2020)
- Wright v. McFadden, No. 5:14-CV-00282-TLW, 2014 WL 6666681, at *2 (D.S.C. Nov. 24, 2014)
- May v. Warden of Goodman Corr. Inst., No. CV 5:22-417-RMG-KDW, 2022 WL 18635155, at *5 (D.S.C. Nov. 3, 2022)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Wright v. Collins, 766 F.2d 841 (4th Cir. 1985)
- United States v. Schronce, 727 F.2d 91 (4th Cir. 1984)