

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, PANAMA CITY DIVISION

Marshall v. Dixon

Marshall · No. 5:25cv175-TKW-HTC · Decided January 21, 2026

SUMMARY

A United States magistrate judge recommends granting the Secretary’s motion to dismiss Anthony C. Marshall’s amended 28 U.S.C. § 2254 petition as untimely under AEDPA. The recommendation rejects statutory and equitable tolling arguments, concludes that no evidentiary hearing is warranted, and recommends denying a certificate of appealability and closing the case.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Panama City Division
WRITING FOR THE COURT	Hope Thai Cannon
JURISDICTION	United States District Court for the Northern District of Florida, Panama City Division
DECIDED	January 21, 2026
DOCKET	5:25cv175-TKW-HTC
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Respondent's motion to dismiss an amended 28 U.S.C. § 2254 petition as untimely.
STANDARD OF REVIEW	A federal habeas petition may be dismissed as untimely under the AEDPA when the record establishes that the one-year limitations period expired before filing. Equitable tolling requires proof of diligent pursuit of rights and an extraordinary circumstance that stood in the petitioner’s way and caused the late filing. An evidentiary hearing is unnecessary when timeliness does not turn on a contested factual issue.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Anthony C. Marshall v. Ricky D. Dixon

TOPICS

federal habeas corpus

statute of limitations

motions to dismiss

post-conviction relief

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PRACTICE AREAS

federal habeas corpus

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civil procedure

QUESTIONS PRESENTED

1. Whether Marshall's § 2254 petition was untimely under the one-year AEDPA limitations period.
2. Whether Marshall's state motions for records, transcripts, discovery, or DNA-related relief statutorily tolled the AEDPA limitations period.
3. Whether Marshall's untimely state petition alleging ineffective assistance of appellate counsel was properly filed and therefore tolled the AEDPA limitations period.
4. Whether Marshall established diligence and extraordinary circumstances warranting equitable tolling.
5. Whether an evidentiary hearing or certificate of appealability was warranted.

HOLDINGS

1. The amended § 2254 petition was untimely because Marshall filed it after the expiration of the one-year limitations period, which expired on November 4, 2024.
2. Marshall's motions seeking records, transcripts, discovery, or similar materials did not toll the AEDPA limitations period because they did not request review of the judgment or authorize the state court to grant relief from the conviction or sentence.
3. Marshall's June 5, 2024 state petition alleging ineffective assistance of appellate counsel did not toll the AEDPA limitations period because the state court dismissed it as untimely.
4. Marshall was not entitled to equitable tolling because he did not establish both diligent pursuit of his rights and an extraordinary circumstance that caused his untimely filing.
5. An evidentiary hearing was not warranted because timeliness did not depend on any contested factual issue.
6. The report recommends denying a certificate of appealability because Marshall made no substantial showing of the denial of a constitutional right.

KEY QUOTATIONS

“shows ‘(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way’ and prevented timely filing.” (560 U.S. at 649)

“That the Motion to Dismiss (Doc. 10) be GRANTED and the Amended Petition (Doc. 6) be DISMISSED WITH PREJUDICE as untimely.” (at conclusion)

FACTUAL BACKGROUND

A Florida jury found Marshall guilty of four sexual offenses involving his then-girlfriend's minor daughter, and the state court imposed four consecutive sentences, including two life sentences and two fifteen-year sentences.

The First District Court of Appeal affirmed the judgment on September 22, 2020, and denied rehearing on October 27, 2020. After accounting for the COVID-19 extension of the time to seek certiorari, the federal limitations period began on March 26, 2021. Marshall used 178 days before filing a state post-conviction motion, which tolled the period until April 29, 2024, leaving 187 days; he did not file the federal petition until June 2025.

PROCEDURAL HISTORY

Marshall was convicted and sentenced in Bay County Circuit Court and the First District Court of Appeal affirmed per curiam without a written opinion. His first state post-conviction motion tolled the federal limitations period until April 29, 2024. He filed the federal habeas action in June 2025, after the AEDPA deadline had expired, and argued that equitable tolling should apply. The magistrate judge recommended granting the motion to dismiss, dismissing the petition with prejudice, denying a certificate of appealability, and closing the file.

DISPOSITION

other

CASES CITED

- Marshall v. State, 304 So. 3d 1218 (Table) (Fla. 1st DCA 2020)
- Wall v. Kholi, 562 U.S. 545, 556 n.4 (2011)
- Sibley v. Culliver, 377 F.3d 1196, 1200 (11th Cir. 2004)
- Brown v. Secretary for the Department of Corrections, 530 F.3d 1335, 1337 (11th Cir. 2008)
- Jones v. Secretary, Florida Department of Corrections, 906 F.3d 1339, 1342 (11th Cir. 2018)
- Pace v. DiGuglielmo, 544 U.S. 408, 414, 418 (2005)
- Carey v. Saffold, 536 U.S. 214 (2002)
- Poole v. Secretary, Department of Corrections, 2023 WL 2743259, at *1 (M.D. Fla. Mar. 31, 2023)
- Diaz v. Secretary for the Department of Corrections, 362 F.3d 698, 702 (11th Cir. 2004)
- Holland v. Florida, 560 U.S. 631, 649 (2010)
- Hunter v. Ferrell, 587 F.3d 1304, 1308 (11th Cir. 2009) (per curiam)
- Lawrence v. Florida, 421 F.3d 1221, 1226 (11th Cir. 2005), aff'd, 549 U.S. 327 (2007)
- Johnson v. United States, 340 F.3d 1219, 1226 (11th Cir. 2003)
- Arthur v. Allen, 452 F.3d 1234, 1253 (11th Cir. 2006)
- Moore v. Frazier, 605 F. App'x 863, 866 (11th Cir. 2015) (per curiam)
- San Martin v. McNeil, 633 F.3d 1257, 1267-68 (11th Cir. 2011)
- Ware v. Page, 2024 WL 5098236, at *3 (S.D. Ga. Oct. 18, 2024), report and recommendation adopted, 2024 WL 5090470 (S.D. Ga. Dec. 12, 2024)
- Perez v. Florida, 519 F. App'x 995, 997 (11th Cir. 2013)

- *Rojas v. United States*, 2011 WL 1467008, at *8 (S.D. Fla. Mar. 21, 2011), report and recommendation adopted, 2011 WL 1467226 (S.D. Fla. Apr. 18, 2011)
- *Felder v. Johnson*, 204 F.3d 168, 172-73 & n.10 (5th Cir. 2000)
- *Rhines v. Weber*, 544 U.S. 269 (2005)
- *Gilbert v. Bobbitt*, 2024 WL 1333044, at *2 (N.D. Ga. Mar. 28, 2024)
- *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007)
- *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000)

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