

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Anthony M. King v. Edward Borla, Warden

No. CV 25-8807-RGK(E) · No. No. CV 25-8807-RGK(E); 2:25-cv-08807 · Decided October 3, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Anthony M. King’s successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court held that King had not obtained authorization from the Ninth Circuit to file the petition, which challenged the same state criminal case previously litigated in federal court, and dismissed the petition without prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
JURISDICTION	United States District Court for the Central District of California
DECIDED	October 3, 2025
DOCKET	No. CV 25-8807-RGK(E); 2:25-cv-08807
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed a second petition under 28 U.S.C. § 2254 challenging the same state-court criminal case previously challenged in a habeas action that had been dismissed with prejudice as untimely. The district court dismissed the new petition without prejudice because petitioner had not obtained authorization from the Ninth Circuit to file a second or successive petition.
STANDARD OF REVIEW	The court applied the statutory gatekeeping requirements for second or successive habeas petitions under 28 U.S.C. § 2244(b).
PRECEDENTIAL VALUE	unpublished
PARTIES	Anthony M. King v. Edward Borla, Warden

TOPICS

- successive petitions
- federal habeas corpus
- post-conviction relief
- appellate procedure

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief
- successive petitions

QUESTIONS PRESENTED

1. Whether the present § 2254 petition was a second or successive petition requiring prior authorization from the Ninth Circuit under 28 U.S.C. § 2244(b).
2. Whether dismissal of King's prior habeas petition as untimely constituted an adjudication on the merits making a later petition challenging the same conviction second or successive.

HOLDINGS

1. A petitioner seeking to file a second or successive § 2254 petition must first obtain authorization from the appropriate court of appeals. Because King had not obtained Ninth Circuit authorization, the district court could not entertain the petition.
2. Dismissal of a § 2254 petition as barred by the statute of limitations constitutes an adjudication on the merits that renders a later petition challenging the same conviction second or successive under § 2244(b).

KEY QUOTATIONS

“The dismissal of a habeas petition as barred by the statute of limitations “constitutes an adjudication on the merits that renders future petitions under § 2254 challenging the same conviction ‘second or successive’ petitions under § 2244(b).”” (at 2)

FACTUAL BACKGROUND

King's petition challenged a Los Angeles County Superior Court criminal case identified as VA091025-01. He had previously challenged the same conviction in a 2009 federal habeas action, which was dismissed with prejudice as untimely. King apparently had not obtained authorization from the Ninth Circuit before filing the present petition.

PROCEDURAL HISTORY

On September 15, 2025, King filed a § 2254 petition challenging Superior Court case number VA091025-01. King had previously filed a habeas petition concerning the same case in the Central District of California in 2009; that petition was denied and dismissed with prejudice as untimely, and judgment was entered on September 29, 2009. The present court concluded that the new petition was second or successive and that King had not obtained the required appellate authorization.

DISPOSITION

dismissed

CASES CITED

- King v. Cate, CV 09-1820-RGK(E) (C.D. Cal. 2009)
- Burton v. Stewart, 549 U.S. 147, 157 (2007)
- Thompson v. Calderon, 151 F.3d 918, 920-21 (9th Cir. 1998), cert. denied, 524 U.S. 965 (1998)

- Calbert v. Marshall, 2008 WL 649798, at *2-4 (C.D. Cal. Mar. 5, 2008)
- McNabb v. Yates, 576 F.3d 1028, 1030 (9th Cir. 2009)

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