

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, WESTERN DIVISION

Brewer v. United States

No. 5:24-CV-05086-RAL · No. 5:24-CV-05086-RAL · Decided April 23, 2026

SUMMARY

The United States District Court for the District of South Dakota denied Trent Brewer’s motion under 28 U.S.C. § 2255, granted the Government’s motion to dismiss, and denied Brewer’s renewed motion for recusal or independent review. The court rejected Brewer’s claims of judicial bias during sentencing and ineffective assistance of counsel, concluding that the record conclusively showed he was not entitled to relief and that several claims were procedurally defaulted or unsupported.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Western Division
WRITING FOR THE COURT	Roberto A. Lange
JURISDICTION	United States District Court for the District of South Dakota, Western Division
DECIDED	April 23, 2026
DOCKET	5:24-CV-05086-RAL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner moved under 28 U.S.C. § 2255 to vacate, set aside, or correct his conviction and sentence, and separately sought independent review of the court's prior refusal to recuse. The Government moved to dismiss the § 2255 motion. The district court denied the § 2255 motion, granted the Government's motion to dismiss, denied the independent-review motion, and declined to issue a certificate of appealability.
STANDARD OF REVIEW	A § 2255 movant is entitled to an evidentiary hearing unless the motion and the files and records conclusively show that the movant is entitled to no relief. Claims may be dismissed without a hearing when the allegations, even if accepted as true, would not establish entitlement to relief, or when the allegations are contradicted by the record, inherently incredible, or conclusory. Ineffective-assistance claims are evaluated under the two-pronged Strickland standard.

PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Trent Brewer v. United States of America

TOPICS

federal habeas corpus post-conviction relief ineffective assistance right to counsel due process

PRACTICE AREAS

federal habeas corpus criminal procedure post-conviction relief ineffective assistance of counsel

sentencing

QUESTIONS PRESENTED

1. Whether Brewer's allegations concerning the sentencing judge's statements and conduct established judicial bias or a due-process violation cognizable under § 2255.
2. Whether Brewer's judicial-bias claim was procedurally defaulted because he failed to raise it on direct appeal.
3. Whether counsel rendered ineffective assistance by failing to investigate a self-defense theory or obtain additional evidence.
4. Whether counsel rendered ineffective assistance by failing to present mitigating evidence at sentencing.
5. Whether counsel rendered ineffective assistance by failing to advise Brewer adequately about the plea agreement, appeal waiver, and potential consequences of breaching the agreement.
6. Whether Brewer was entitled to an evidentiary hearing or a certificate of appealability.
7. Whether Brewer's renewed motion for independent review of the prior recusal decision was timely and legally supported.

HOLDINGS

1. Brewer's judicial-bias claim was procedurally defaulted because he did not raise it on direct appeal, and he failed to show cause and prejudice or actual innocence to excuse the default. In any event, the claim failed because the sentencing transcript did not establish actual bias or a risk of bias.
2. Counsel was not ineffective for failing to continue investigating the underlying offense, obtain a search warrant, or further develop a self-defense theory after Brewer accepted the plea agreement.
3. Counsel was not ineffective for failing to investigate or present mitigating evidence because the record showed that counsel presented substantial mitigation evidence and arguments at sentencing.
4. Counsel did not provide ineffective assistance by advising Brewer about the plea agreement, appeal waiver, dismissed and uncharged offenses, or his appellate rights.
5. Brewer was not entitled to an evidentiary hearing because the motion, files, and records conclusively showed that he was not entitled to § 2255 relief.

6. Brewer's renewed motion for independent review was denied as untimely because it was filed more than fifteen months after the prior recusal order and did not identify a legal basis for reconsideration.

KEY QUOTATIONS

“To establish a claim of ineffective assistance of counsel, the petitioner must show both that his counsel’s performance was deficient, and that the deficient performance prejudiced his defense.” (at 13)

“Brewer’s failure to show prejudice means he cannot meet the second part of the Strickland test.” (at 25)

“This Court declines to issue a certificate of appealability because Brewer has not made a substantial showing of the denial of a constitutional right.” (at 27)

FACTUAL BACKGROUND

Brewer, an enrolled member of the Oglala Sioux Tribe, shot his cousin Alec Dillon multiple times on the Pine Ridge Reservation, killing him. Brewer pleaded guilty to second-degree murder under a plea agreement after the Government threatened to pursue additional sex-offense charges based on evidence discovered during the investigation. At sentencing, counsel presented support letters, mitigating arguments, and a portion of a documentary, and Brewer received a 200-month sentence.

PROCEDURAL HISTORY

Brewer pleaded guilty in the underlying criminal case to second-degree murder and received a sentence of 200 months' imprisonment followed by five years of supervised release. He did not appeal, making the judgment final on December 13, 2023. He timely filed this § 2255 motion on November 12, 2024, asserting judicial bias and ineffective assistance of counsel. The court reviewed the record and counsel's affidavit, determined that the record conclusively refuted Brewer's claims, and denied relief without an evidentiary hearing.

DISPOSITION

dismissed

CASES CITED

- United States v. Johnson, United States v. Johnson, 457 U.S. 537, 542-43 & n.8 (1982)
- Clay v. United States, 537 U.S. 522, 525, 527 (2003)
- Lee v. United States, 149 F.4th 981, 984 (8th Cir. 2025)
- Holder v. United States, 721 F.3d 979, 993 (8th Cir. 2013)
- Watson v. United States, 493 F.3d 960, 963 (8th Cir. 2007)
- Winters v. United States, 716 F.3d 1098, 1103 (8th Cir. 2013)
- Bracy v. Gramley, 520 U.S. 899, 904-05 (1997)
- Veal v. Iowa Corr. Inst. for Women, 274 F.3d 479, 480-81 (8th Cir. 2001)
- United States v. Johnson, 163 F.4th 518, 522 (8th Cir. 2026)
- Marshall v. Jerrico, Inc., 446 U.S. 238, 242 (1980)

- *Murchu v. United States*, 926 F.2d 50, 55-56 (1st Cir. 1991) (per curiam)
- *Pettis v. United States*, 129 F.4th 1057, 1063 (7th Cir. 2025)
- *United States v. Couch*, 896 F.2d 78, 81 (5th Cir. 1990)
- *McNeal v. United States*, 249 F.3d 747, 749 (8th Cir. 2001)
- *Strickland v. Washington*, 466 U.S. 668, 687, 689-90 (1984)
- *Gideon v. Wainwright*, *Gideon v. Wainwright*, 372 U.S. 335, 339 (1963)
- *Johnson v. Zerbst*, 304 U.S. 458, 459 (1938)
- *Powell v. Alabama*, 287 U.S. 45, 63 (1932)
- *United States v. Ledezma-Rodriguez*, 423 F.3d 830, 836 (8th Cir. 2005)
- *Missouri v. Frye*, 566 U.S. 134, 140, 145 (2012)
- *Hill v. Lockhart*, 474 U.S. 52, 57, 59 (1985)
- *Allen v. United States*, 854 F.3d 428, 432 (8th Cir. 2017)
- *Williams v. United States*, 452 F.3d 1009, 1013 (8th Cir. 2006)
- *Delgado v. United States*, 162 F.3d 981, 982 (8th Cir. 1998)
- *Willis v. United States*, 87 F.3d 1004, 1008 (8th Cir. 1996)
- *Worthington v. Roper*, 631 F.3d 487, 500 (8th Cir. 2011)
- *Link v. Luebbbers*, 469 F.3d 1197, 1203-04 (8th Cir. 2006)
- *Thomas v. United States*, 737 F.3d 1202, 1207 (8th Cir. 2013)
- *United States v. Rice*, 449 F.3d 887, 897 (8th Cir. 2006)
- *English v. United States*, 998 F.2d 609, 613 (8th Cir. 1993)
- *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010)
- *Mayfield v. United States*, 955 F.3d 707, 711 (8th Cir. 2020)
- *Ford v. United States*, 917 F.3d 1015, 1021 (8th Cir. 2019)
- *United States v. Frausto*, 754 F.3d 640, 643 (8th Cir. 2014)
- *Thompson v. United States*, 872 F.3d 560, 566-67 (8th Cir. 2017)
- *Lee v. United States*, 582 U.S. 357, 367-69 (2017)
- *Guzman-Ortiz v. United States*, 849 F.3d 708, 715 (8th Cir. 2017)
- *Sanders v. Clemco Indus.*, 862 F.2d 161, 168 (8th Cir. 1988)
- *Broadway v. Norris*, 193 F.3d 987, 989 (8th Cir. 1999)