

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

Jogaak Jogaak v. Tabitha Benting

Jogaak · No. 4:26-CV-04002-KES · Decided January 12, 2026

SUMMARY

The United States District Court for the District of South Dakota issues an order directing service of a state prisoner’s habeas petition and requiring the parties to show cause why the petition should not be dismissed as untimely under AEDPA. The court treats the petition, filed under 28 U.S.C. § 2241, as governed by the requirements applicable to a § 2254 petition. The order also directs the respondent to file records from the underlying criminal and habeas proceedings.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Veronica L. Duffy
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	January 12, 2026
DOCKET	4:26-CV-04002-KES
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner filed a petition labeled under 28 U.S.C. § 2241 challenging a South Dakota conviction. After preliminary screening under Rule 4, the court determined that the petition should be treated as arising under § 2254 and ordered service and briefing on why the petition should not be dismissed with prejudice as untimely.
STANDARD OF REVIEW	Preliminary screening under Rule 4 of the Rules Governing Section 2254 Cases; the court may raise the AEDPA statute of limitations sua sponte but must provide fair notice and an opportunity to respond before dismissing on that basis.
PRECEDENTIAL VALUE	unpublished
PARTIES	Jogaak Jogaak v. Tabitha Benting, Warden of South Dakota State Penitentiary

TOPICS

federal habeas corpus

statute of limitations

state post-conviction relief

pleadings

civil procedure

PRACTICE AREAS

federal habeas corpus

state post-conviction relief

civil procedure

QUESTIONS PRESENTED

1. Whether a state prisoner who labels a habeas petition under 28 U.S.C. § 2241 must nevertheless comply with the procedural requirements applicable to a § 2254 petition.
2. Whether the petition appears untimely under AEDPA's one-year statute of limitations.
3. Whether the court could raise the limitations issue sua sponte and require the parties to show cause before dismissal.
4. Whether the state post-conviction proceedings could statutorily toll the federal limitations period after that period had expired.

HOLDINGS

1. A state prisoner challenging custody arising from a state-court conviction must be treated as proceeding under § 2254 and cannot avoid § 2254's procedural requirements by labeling the petition as one under § 2241.
2. The petition appears untimely because the conviction became final on March 13, 2024, the one-year limitations period expired on March 13, 2025, and the federal petition was not filed until January 7, 2026.
3. A state post-conviction application cannot toll an AEDPA limitations period that had already expired before the application was filed.
4. Equitable tolling may apply to AEDPA's limitations period, but a petitioner bears the burden of showing diligent pursuit of rights and an extraordinary circumstance that prevented timely filing.

KEY QUOTATIONS

“State prisoners “can only obtain habeas relief through § 2254, no matter how [their] pleadings are styled.”” (Discussion § A)

“The name makes no difference. It is substance that controls.” (Discussion § A)

“The court may raise the statute of limitations issue sua sponte.” (Discussion § B)

FACTUAL BACKGROUND

Jogaak is incarcerated pursuant to a South Dakota conviction for possession of a controlled substance. He did not file a direct appeal, and the court determined that his conviction became final on March 13, 2024, when the time for appealing expired. He filed a state habeas petition on October 3, 2025, after the one-year federal

limitations period had already expired, and filed this federal petition on January 7, 2026. He invoked equitable tolling but supplied no supporting facts.

PROCEDURAL HISTORY

Jogaak was convicted in South Dakota state court in 2024 and did not file a direct appeal. He filed a state habeas petition on October 3, 2025, and the state courts denied relief. He filed the federal petition on January 7, 2026. The court issued an order directing service, requiring the parties to show cause regarding timeliness, and requiring production of the underlying criminal and habeas records.

DISPOSITION

other

CASES CITED

- Thomas v. Crosby, 371 F.3d 782, 787 (11th Cir. 2004)
- Crouch v. Norris, 251 F.3d 720, 723 (8th Cir. 2001)
- Cook v. New York State Division of Parole, 321 F.3d 274, 279 (2d Cir. 2003)
- Coady v. Vaughn, 251 F.3d 480, 483-85 (3d Cir. 2001)
- Walker v. O'Brien, 216 F.3d 626, 632-33 (7th Cir. 2000)
- Curry v. United States, 507 F.3d 603, 604 (7th Cir. 2007)
- Smith v. Bowersox, 159 F.3d 345, 348 (8th Cir. 1998)
- Jihad v. Hvass, 267 F.3d 803, 804-05 (8th Cir. 2001)
- Faulks v. Weber, 459 F.3d 871, 873 (8th Cir. 2006)
- Duncan v. Walker, 533 U.S. 167, 177 (2001)
- Maghee v. Ault, 410 F.3d 473, 475 (8th Cir. 2005)
- Peterson v. Gammon, 200 F.3d 1202, 1203 (8th Cir. 2000)
- Johnson v. Kemna, 451 F.3d 938, 939 (8th Cir. 2006)
- Painter v. Iowa, 247 F.3d 1255, 1256 (8th Cir. 2001)
- Curtiss v. Mount Pleasant Correctional Facility, 338 F.3d 851, 853 (8th Cir. 2003)
- Baker v. Norris, 321 F.3d 769, 771 (8th Cir. 2003)
- Holland v. Florida, 560 U.S. 631, 649-50 (2010)
- Pace v. DiGuglielmo, 544 U.S. 408, 418 (2005)
- Shoemate v. Norris, 390 F.3d 595, 597 (8th Cir. 2004)
- Day v. McDonough, 547 U.S. 198, 209-10 (2006)