

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Aluizo v. Gamboa

Aluizo · No. 1:25-cv-00513-CDB (HC) · Decided June 13, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Carlos Santana Aluizo’s 28 U.S.C. § 2254 habeas petition with prejudice as untimely under AEDPA. The court concludes that the limitations period expired before the petition was filed, that a later state habeas filing did not revive or toll the period, and that neither delayed commencement nor equitable tolling applies.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 13, 2025
DOCKET	1:25-cv-00513-CDB (HC)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. After preliminary screening, the magistrate judge issued findings and recommendations that the petition be dismissed with prejudice as time-barred after the petitioner failed to respond to an order to show cause.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing § 2254 Cases, the court conducts preliminary review and may dismiss a petition when it plainly appears that the petitioner is not entitled to relief. The court may raise timeliness sua sponte but must provide fair notice and an opportunity to respond before dismissing on that basis.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge findings and recommendations; adoption by the assigned district judge is not shown.

TOPICS

- federal habeas corpus
- statute of limitations
- post-conviction relief
- state post-conviction relief
- pleadings

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the court could raise the timeliness of the § 2254 petition sua sponte after giving petitioner notice and an opportunity to respond.
2. Whether the federal habeas petition was barred by the one-year statute of limitations under 28 U.S.C. § 2244(d).
3. Whether statutory or equitable tolling excused the untimely filing.

HOLDINGS

1. A district court may raise the timeliness of a state prisoner's habeas petition sua sponte, but must provide fair notice and an opportunity to present a position before dismissing on that basis.
2. The petition was untimely because the one-year limitations period began after the conviction became final on February 14, 2023, expired no later than February 16, 2024, and the federal petition was not filed until April 27, 2025.
3. Equitable tolling was unavailable because petitioner did not demonstrate diligent pursuit of his rights or an extraordinary circumstance that prevented timely filing.

KEY QUOTATIONS

“district courts are permitted, but not obliged, to consider, sua sponte, the timeliness of a state prisoner’s habeas petition” (at 2)

“state habeas petitions filed after the one-year statute of limitations expired do not revive the statute of limitations and have no tolling effect.” (at 3)

“the statute of limitations expired no later than February 16, 2024, and equitable tolling does not apply” (at 3)

FACTUAL BACKGROUND

Petitioner was convicted in 2021 in the Merced County Superior Court of violations of California Penal Code §§ 288.7(b) and 288(a). The California Supreme Court declined review on November 16, 2022, and the conviction became final when the period for seeking United States Supreme Court review expired on February 14, 2023. Petitioner filed his federal habeas petition on April 27, 2025, identifying a state collateral motion filed on March 19, 2025, but did not respond to the court's order to show cause regarding timeliness.

PROCEDURAL HISTORY

Petitioner challenged 2021 Merced County Superior Court convictions. He filed the federal habeas petition on April 27, 2025, and the court issued an order to show cause on May 7, 2025, concerning timeliness. Petitioner did not respond within the allotted period, so the magistrate judge recommended dismissal with prejudice and submission of the recommendation to the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1988)
- Day v. McDonough, 547 U.S. 198, 210 (2006)
- Bowen v. Roe, 188 F.3d 1157, 1159 (9th Cir. 1999)
- Patterson v. Stewart, 251 F.3d 1243, 1246 (9th Cir. 2001)
- Larsen v. Soto, 742 F.3d 1083, 1088 (9th Cir. 2013)
- Holland v. Florida, 560 U.S. 631, 649 (2010)
- Spitsyn v. Moore, 345 F.3d 796, 799 (9th Cir. 2003)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)