

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Bernard Brown, Jr. v. Marcus Pollard

No. 2:22-cv-06755-FLA (KSx), United States District Court for the Central District of California (April 9, 2025)

SUMMARY

The United States District Court for the Central District of California accepted and adopted a magistrate judge’s report and recommendation concerning the petitioner’s motion to amend his habeas petition. The court denied amendment because the proposed claims were untimely or duplicative and the petitioner’s objections did not warrant a different result.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fernando L. Aenlle-Rocha
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 9, 2025
DOCKET	2:22-cv-06755-FLA (KSx)
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought leave to amend a pending federal habeas petition to add four claims. After a magistrate judge recommended denying amendment because the proposed claims were untimely or duplicative, the district court conducted de novo review of the objected-to portions of the Report and Recommendation and denied the motion to amend.
STANDARD OF REVIEW	De novo review of the portions of the Report and Recommendation to which objections were made, pursuant to 28 U.S.C. § 636.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Bernard Brown, Jr. v. Marcus Pollard

TOPICS

- motion to amend
- federal habeas corpus
- statute of limitations
- successive petitions
- civil procedure

PRACTICE AREAS

- federal habeas corpus
- civil procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the proposed amendment was governed by the successive-habeas-petition standard.
2. Whether the proposed claims related back to the timely claims because they shared a common core of operative facts.
3. Whether alleged withholding of Petitioner's legal materials supported equitable tolling of the filing deadline.
4. Whether lack of prior exhaustion justified allowing amendment.
5. Whether a duplicative proposed claim rendered amendment futile.

HOLDINGS

1. The action was not a successive habeas petition because no earlier-filed petition by Petitioner had been finally adjudicated.
2. The proposed claims did not relate back because they were not tied to a common core of operative facts with the earlier claims.
3. The alleged withholding of Petitioner's legal materials could not support equitable tolling because it could not have caused the proposed claims' untimeliness.
4. Petitioner was not required to exhaust the proposed claims in state court before filing the motion to amend.
5. The proposed insufficiency-of-the-evidence claim was duplicative of an already-pending insufficiency claim, making amendment futile.
6. Petitioner was not entitled to amend his petition with untimely claims merely because he was required to litigate pro se.

KEY QUOTATIONS

“A habeas petition is successive if, “at a minimum, an earlier-filed petition has been finally adjudicated.””
(at 1)

“For if an extraordinary circumstance is not the cause of a litigant’s untimely filing, then there is nothing for equity to address.” (at 2)

FACTUAL BACKGROUND

Petitioner sought to add four claims to his pending habeas petition. The proposed claims involved different stages of the state criminal proceeding, a different prosecutor, and discrete or separate transactions from those underlying the timely claims. The proposed claims were six months untimely, and alleged withholding of legal materials lasted at most approximately five months. At least one proposed insufficiency-of-the-evidence claim duplicated an already-pending insufficiency claim.

PROCEDURAL HISTORY

The petition remained pending when Petitioner moved to add four claims. The magistrate judge recommended denial because the claims were untimely or duplicative. Petitioner objected, arguing that the successive-petition standard should apply, that some claims related back, that exhaustion and equitable tolling justified amendment, and that one claim was not duplicative. The district court rejected the objections, adopted the Report and Recommendation, and denied the motion to amend.

DISPOSITION

other

CASES CITED

- Balbuena v. Sullivan, 980 F.3d 619, 635 (9th Cir. 2020)
- Pace v. DiGuglielmo, 544 U.S. 408, 416 (2005)
- Waldron-Ramey v. Pacholke, 556 F.3d 1008, 1013 (9th Cir. 2009)
- Smith v. Davis, 953 F.3d 582, 591 (9th Cir. 2020) (en banc)