

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, EASTERN DIVISION

Nettie Lewis v. Burl Cain

Lewis · No. 2:25-cv-00148-HSO-BWR · Decided May 4, 2026

SUMMARY

This Report and Recommendation addresses Nettie Lewis’s 28 U.S.C. § 2254 habeas petition challenging her Mississippi convictions and sentences. The court recommends granting Respondent Burl Cain’s motion to dismiss because the petition was filed outside the AEDPA statute of limitations and Lewis was not entitled to statutory or equitable tolling. The court also concludes that Lewis’s allegations of newly discovered evidence do not establish actual innocence sufficient to overcome the time bar.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Eastern Division
WRITING FOR THE COURT	Bradley W. Rath
JURISDICTION	United States District Court for the Southern District of Mississippi, Eastern Division
DECIDED	May 4, 2026
DOCKET	2:25-cv-00148-HSO-BWR
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Respondent's motion to dismiss a 28 U.S.C. § 2254 habeas petition as untimely.
STANDARD OF REVIEW	A federal habeas petition under § 2254 is subject to AEDPA's one-year statute of limitations. Statutory tolling applies only while a properly filed state post-conviction or other collateral application is pending, and equitable tolling requires diligent pursuit of rights and an extraordinary circumstance preventing timely filing. A report and recommendation is subject to review by the assigned district judge upon timely objection under 28 U.S.C. § 636(b)(1) and Local Uniform Civil Rule 72(a)(3).
PRECEDENTIAL VALUE	Nonprecedential report and recommendation

TOPICS

federal habeas corpus

statute of limitations

actual innocence

post-conviction relief

criminal procedure

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Criminal procedure

Statute of limitations

QUESTIONS PRESENTED

1. Whether Lewis's § 2254 petition was barred by AEDPA's one-year statute of limitations.
2. Whether Lewis was entitled to statutory tolling based on her state PCR motion, sentence-reduction motion, or letters seeking records and assistance.
3. Whether Lewis was entitled to equitable tolling based on her lack of legal knowledge or pro se status.
4. Whether Lewis's allegations of newly discovered evidence established an actual-innocence gateway sufficient to overcome the limitations bar.

HOLDINGS

1. Lewis's § 2254 petition was untimely because her conviction became final on May 15, 2018, giving her until May 15, 2019, to file a federal habeas petition, but she did not file until September 15, 2025.
2. Lewis was not entitled to statutory tolling because her state PCR motion was filed after the federal limitations period had expired, her sentence-reduction motion did not collaterally attack the sentence or seek post-conviction relief, and her letters seeking records or assistance were not properly filed state habeas applications.
3. Lewis was not entitled to equitable tolling because she did not establish diligent pursuit of her rights or an extraordinary circumstance that prevented timely filing.
4. Lewis's allegations concerning purported falsified evidence and hospital records did not establish an actual-innocence gateway allowing review of her otherwise time-barred habeas claims.

KEY QUOTATIONS

“A state prisoner generally must file for federal habeas relief within a year after his conviction becomes final. That limitation period is tolled, however, during the pendency of a properly filed application for state habeas relief.” (Section II.A)

“Habeas relief is not granted based solely on the claim of actual innocence. Actual innocence only enables a petitioner to proceed on the merits of her otherwise time-barred habeas claims.” (Section II.B)

FACTUAL BACKGROUND

Lewis was indicted for first-degree murder and first-degree arson and pleaded guilty to second-degree depraved-heart murder and first-degree arson. The Marion County Circuit Court sentenced her to concurrent terms of forty

years and twenty years, respectively, and the judgment became final in May 2018. Lewis filed a state PCR motion in February 2021 and a sentence-reduction motion in January 2022, both after the federal limitations period had expired. She filed her federal habeas petition in September 2025, asserting ineffective assistance, prosecutorial misconduct, sentencing errors, and newly discovered evidence.

PROCEDURAL HISTORY

Lewis pleaded guilty in the Marion County Circuit Court to second-degree murder and first-degree arson and was sentenced on February 9, 2018. She filed a state post-conviction motion in 2021, which was denied without an appeal, and later sought sentence reduction in 2022. She filed this federal habeas petition on September 15, 2025. Respondent moved to dismiss under AEDPA's statute of limitations, and Lewis did not respond after being ordered to do so. The magistrate judge recommended granting the motion and dismissing the petition with prejudice, subject to objections and review by the assigned district judge.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that Respondent's motion to dismiss be granted and Lewis's petition be dismissed with prejudice as time barred. The recommendation was subject to objections within fourteen days and review by the assigned district judge; no remand instruction was issued.

CASES CITED

- Shannon v. Johnson, No. 5:18-cv-95-DCB-JCG, 2019 WL 4305746, at *1 (S.D. Miss. Sept. 11, 2019)
- Richards v. Thaler, 710 F.3d 573, 576 (5th Cir. 2013)
- Jackson v. Davis, 933 F.3d 408, 410 (5th Cir. 2019)
- Jones v. Lumpkin, 22 F.4th 486, 490, 492 (5th Cir. 2022)
- Davis v. Johnson, 158 F.3d 806, 811 (5th Cir. 1998)
- Holland v. Florida, 560 U.S. 631, 649 (2010)
- Wallace v. Mississippi, 43 F.4th 482, 497-501 (5th Cir. 2022)
- Artuz v. Bennett, 531 U.S. 4, 8 (2000)
- Frith v. Epps, 392 F. App'x 342, 346 (5th Cir. 2010)
- Thompson v. McClure, No. 1:22-cv-129-SA-RP, 2023 WL 7391498, at *4 (N.D. Miss. Nov. 8, 2023)
- Alexander v. Cockrell, 294 F.3d 626, 630 (5th Cir. 2002)
- Turner v. Johnson, 177 F.3d 390, 392 (5th Cir. 1999)
- Floyd v. Vannoy, 894 F.3d 143, 155 (5th Cir. 2018)
- McQuiggin v. Perkins, 569 U.S. 383, 386 (2013)
- Schlup v. Delo, 513 U.S. 298, 299, 324, 329 (1995)
- Hancock v. Davis, 906 F.3d 387, 390 (5th Cir. 2018)

- Moore v. Quarterman, 534 F.3d 454, 465 (5th Cir. 2008)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996)

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