

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
NORTH CAROLINA

Omari Lewis Crump, Sr. v. Leslie Cooley Dismukes, Secretary, North  
Carolina Department of Adult Correction

Crump · No. 3:24-cv-01070-MR · Decided May 20, 2026

SUMMARY

The United States District Court for the Western District of North Carolina dismissed Omari Lewis Crump, Sr.’s 28 U.S.C. § 2254 habeas petition as untimely under the Antiterrorism and Effective Death Penalty Act. The court held that the petitioner’s state motion for appropriate relief did not toll the limitations period because it was filed after that period had expired. The court also rejected his asserted actual-innocence gateway claim and declined to issue a certificate of appealability.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| COURT                 | United States District Court for the Western District of North Carolina                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Martin Reidinger                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | United States District Court for the Western District of North Carolina                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | May 20, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DOCKET                | 3:24-cv-01070-MR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Petitioner's pro se 28 U.S.C. § 2254 petition for a writ of habeas corpus was reviewed by the federal district court after the court ordered him to show cause why the petition should not be dismissed as untimely.                                                                                                                                                                                                                                                                                                                      |
| STANDARD OF REVIEW    | Under 28 U.S.C. § 2244(d)(1)(A), a § 2254 petition must be filed within one year after the state judgment becomes final. A properly filed state post-conviction motion tolls the limitations period only while the period is still running and does not revive an already expired period. To invoke the actual-innocence gateway, a petitioner must present new reliable evidence and show that, in light of all the evidence, it is more likely than not that no reasonable juror would have found him guilty beyond a reasonable doubt. |
| PRECEDENTIAL VALUE    | Unknown; memorandum decision from a federal district court                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## PARTIES

Omari Lewis Crump, Sr. v. Leslie Cooley Dismukes, Secretary, North Carolina Department of Adult Correction

## TOPICS

federal habeas corpus

post-conviction relief

actual innocence

successive petitions

ineffective assistance

## PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

ineffective assistance of counsel

evidence

## QUESTIONS PRESENTED

1. Whether the § 2254 petition was barred by the one-year statute of limitations in 28 U.S.C. § 2244(d)(1) (A).
2. Whether Petitioner's state motion for appropriate relief tolled or revived the expired federal limitations period.
3. Whether Petitioner established statutory or equitable tolling under the circumstances.
4. Whether Petitioner satisfied the actual-innocence gateway recognized in *Schlup v. Delo* and extended to time-barred habeas claims by *McQuiggin v. Perkins*.
5. Whether a certificate of appealability should issue.

## HOLDINGS

1. The petition was untimely because Petitioner's state judgment became final on November 8, 2021, and the one-year AEDPA limitations period expired on November 8, 2022, before Petitioner filed his federal petition on December 11, 2024.
2. Petitioner failed to demonstrate that statutory or equitable tolling applied.
3. Petitioner did not pass through the actual-innocence gateway because he presented neither new reliable evidence nor a supported theory demonstrating that no reasonable juror would have found him guilty beyond a reasonable doubt.
4. The court declined to issue a certificate of appealability.

## KEY QUOTATIONS

*"The Petitioner has presented nothing "new" as contemplated by Schlup. More significantly, however, the Petitioner has not presented any "evidence.""*

*"In fact, the Phillips case is not evidence at all."*

## FACTUAL BACKGROUND

Petitioner was convicted of second-degree sexual offense and being a felon in possession of a firearm after evidence that he discharged a shotgun from his apartment balcony and forcibly attempted sexual intercourse with a juvenile victim. At trial, his defense theory was that the sexual contact was consensual. The state initially

charged incest but later dropped that charge after DNA testing indicated that Petitioner and the victim were not related. In federal court, Petitioner relied on a later North Carolina appellate decision concerning the admission of expert DNA testimony, but he offered no new evidence such as a recantation or evidence that the sexual contact did not occur.

## PROCEDURAL HISTORY

Petitioner was convicted in Mecklenburg County Superior Court in 2019. The North Carolina Court of Appeals affirmed, and the North Carolina Supreme Court denied further direct review. Petitioner filed a state motion for appropriate relief after the federal limitations period had expired, then filed this § 2254 petition. After the court ordered Petitioner to show cause regarding timeliness, he asserted actual innocence based on new expert testimony and the North Carolina Court of Appeals decision in *State v. Phillips*.

## DISPOSITION

dismissed

## CASES CITED

- *State v. Crump*, 273 N.C. App. 336, 848 S.E.2d 501 (2020)
- *State v. Crump*, 377 N.C. 567, 858 S.E.2d 284 (2021)
- *Hill v. Braxton*, 277 F.3d 701, 704 (4th Cir. 2002)
- *Clay v. United States*, 537 U.S. 522, 527 (2003)
- *Minter v. Beck*, 230 F.3d 663 (4th Cir. 2000)
- *Schlup v. Delo*, 513 U.S. 298, 324, 327-28 (1995)
- *McQuiggin v. Perkins*, 569 U.S. 383, 386 (2013)
- *House v. Bell*, 547 U.S. 518, 538 (2006)
- *Sharpe v. Bell*, 593 F.3d 372, 377 (4th Cir. 2010)
- *Wolfe v. Dotson*, 144 F.4th 218, 233-34 (4th Cir. 2025)
- *State v. Phillips*, 268 N.C. App. 623, 836 S.E.2d 866 (2019)
- *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003)
- *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)