

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Andre Vernon v. Steward Eckert

Vernon · No. 26-CV-6299-MAV · Decided April 21, 2026

SUMMARY

The United States District Court for the Western District of New York directs the respondent in Andre Vernon's 28 U.S.C. § 2254 habeas petition to brief whether the petition is timely under AEDPA's statute of limitations. The order also provides Vernon an opportunity to respond and requires production of relevant state-court records and appellate materials.

CASE DETAILS

COURT	United States District Court for the Western District of New York
JURISDICTION	United States District Court for the Western District of New York
DECIDED	April 21, 2026
DOCKET	26-CV-6299-MAV
DISPOSITION	other
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2254; the court ordered respondent to brief whether the petition is timely under AEDPA and provided petitioner an opportunity to respond.
PRECEDENTIAL VALUE	Unpublished district court order; limited persuasive value.
PARTIES	Andre Vernon v. Steward Eckert, Superintendent, Wende Correctional Facility

TOPICS

- federal habeas corpus
- statute of limitations
- post-conviction relief
- pleadings
- civil procedure

PRACTICE AREAS

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

QUESTIONS PRESENTED

- Whether the court should require briefing and the state-court record to determine whether Vernon's § 2254 petition is timely under AEDPA's statute of limitations.

2. Whether the court must provide Vernon notice and an opportunity to be heard before dismissing the habeas petition as untimely.

HOLDINGS

1. Before dismissing the petition sua sponte as untimely, the court must provide Vernon notice and an opportunity to be heard on the statute-of-limitations issue.
2. The court required respondent to file a memorandum addressing whether the petition is timely under AEDPA, together with supporting authority and relevant exhibits, before the court determines the limitations issue.

KEY QUOTATIONS

“Additionally, before the Court can dismiss the petition as untimely, it must first provide Vernon notice and opportunity to be heard on the statute of limitations issue.” (Discussion)

“Respondent shall file and serve, within 90 days of the date of this Order, a memorandum of law addressing whether the petition is timely under AEDPA’s statute of limitations, including citations to supporting authority and relevant exhibits” (Conclusion)

FACTUAL BACKGROUND

Vernon is incarcerated at Wende Correctional Facility and is serving a sentence arising from a January 23, 2009 judgment of conviction. Following a jury verdict, he was convicted of second-degree murder, second-degree attempted murder, first-degree assault, and second-degree criminal possession of a weapon. He contends that the state court failed to serve an order dated March 21, 2016, and argues that this circumstance warrants statutory tolling under 28 U.S.C. § 2244(d)(1)(B).

PROCEDURAL HISTORY

Vernon filed an original and amended § 2254 petition challenging his state-court convictions. The court noted that the petition appeared untimely but declined to dismiss it immediately, directing respondent to brief the statute-of-limitations issue and requiring that Vernon receive notice and an opportunity to be heard. An earlier petition filed by a next friend had been dismissed for lack of standing.

DISPOSITION

other

CASES CITED

- People v. Vernon, 186 A.D.3d 1276 (4th Dep't 2016)
- Acosta v. Artuz, 221 F.3d 117, 125 (2d Cir. 2000)

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