

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Derrick Barrett v. State of Florida

No. 3D26-0180; Lower Tribunal No. F16-16155 · No. No. 3D26-0180 · Decided March 4, 2026

SUMMARY

The Third District Court of Appeal of Florida dismissed with prejudice Derrick Barrett’s original-jurisdiction petition for writ of habeas corpus. The court held that the petition was untimely and repeated conclusory claims of ineffective assistance of appellate counsel without supporting facts.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	EMAS; LOGUE; LINDSEY
JURISDICTION	Third District Court of Appeal of Florida
DECIDED	March 4, 2026
DOCKET	No. 3D26-0180
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original-jurisdiction habeas corpus proceeding involving a petition alleging ineffective assistance of appellate counsel.
PRECEDENTIAL VALUE	published
PARTIES	Derrick Barrett v. State of Florida

TOPICS

- post-conviction relief
- ineffective assistance
- habeas corpus
- appellate procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure

QUESTIONS PRESENTED

- Whether Barrett's petition alleging ineffective assistance of appellate counsel was timely under Florida Rule of Appellate Procedure 9.141(d)(5).
- Whether a habeas petition alleging conclusory and unsupported claims of ineffective assistance of appellate counsel should be dismissed with prejudice.

HOLDINGS

1. A petition alleging ineffective assistance of appellate counsel on direct review is subject to the time limits in Florida Rule of Appellate Procedure 9.141(d)(5), and this petition was untimely.
2. A habeas petition alleging ineffective assistance of appellate counsel through conclusory claims lacking supporting facts or record references may be dismissed with prejudice.

KEY QUOTATIONS

“A petition alleging ineffective assistance of appellate counsel on direct review must not be filed more than 2 years after the judgment and sentence become final on direct review unless it alleges under oath with a specific factual basis that the petitioner was affirmatively misled about the results of the appeal by counsel. In no case may a petition alleging ineffective assistance of appellate counsel on direct review be filed more than 4 years after the judgment and sentence become final on direct review.” (2)

“Aligning ourselves with our sister courts, we do so with prejudice.” (2)

“Because Petitioner's claims are conclusory and lack supporting facts to demonstrate a basis for relief, the petition alleging ineffective assistance of appellate counsel is dismissed with prejudice.” (2)

FACTUAL BACKGROUND

The petition alleged ineffective assistance of appellate counsel on direct review. The court characterized the claims as the same conclusory claims previously presented by Barrett in an earlier habeas petition. The current petition was filed beyond the time limits prescribed by Florida Rule of Appellate Procedure 9.141(d)(5), and the opinion identified no sworn factual basis showing that Barrett had been affirmatively misled about the appeal.

PROCEDURAL HISTORY

Barrett filed a petition for writ of habeas corpus in the Third District Court of Appeal alleging ineffective assistance of appellate counsel. The court dismissed the petition with prejudice as untimely and legally insufficient under Florida Rule of Appellate Procedure 9.141(d)(5), relying also on Barrett's prior dismissal involving the same conclusory claims.

DISPOSITION

dismissed

CASES CITED

- Derrick Barrett v. State, 425 So. 3d 681, 681 (Fla. 3d DCA 2025)
- Fields v. State, 126 So. 3d 382, 383 (Fla. 4th DCA 2013)
- Eleazer v. State, 342 So. 3d 830, 830 (Fla. 1st DCA 2022)
- Barrett v. State, No. 3D25-0967

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