

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Kevin Thomas Macklin v. Casey Hamilton, Warden

Macklin · No. CIV-25-974-G · Decided November 21, 2025

SUMMARY

The United States District Court for the Western District of Oklahoma adopted a magistrate judge’s recommendation and dismissed Kevin Thomas Macklin’s 28 U.S.C. § 2254 petition without prejudice for lack of jurisdiction. The court concluded that the petition was an unauthorized second or successive habeas petition and that transfer was not in the interest of justice. The court denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Charles B. Goodwin
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	November 21, 2025
DOCKET	CIV-25-974-G
DISPOSITION	dismissed
PROCEDURAL POSTURE	A state prisoner filed a petition for federal habeas corpus relief under 28 U.S.C. § 2254. After referral, a magistrate judge recommended dismissal as an unauthorized second or successive petition and determined that transfer was not in the interest of justice. The district court adopted the recommendation, dismissed the petition without prejudice for lack of jurisdiction, and denied a certificate of appealability.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's Report and Recommendation under 28 U.S.C. § 636(b)(1), with the petition dismissed for lack of subject matter jurisdiction because it was an unauthorized second or successive habeas petition.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Kevin Thomas Macklin v. Casey Hamilton, Warden

TOPICS

federal habeas corpus

successive petitions

subject matter jurisdiction

post-conviction relief

appellate procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

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QUESTIONS PRESENTED

1. Whether the district court had jurisdiction to consider the merits of Macklin's second or successive § 2254 petition without prior authorization from the Tenth Circuit.
2. Whether the petition should be transferred rather than dismissed because it was an unauthorized second or successive petition.
3. Whether Macklin was entitled to a certificate of appealability after dismissal on procedural jurisdictional grounds.

HOLDINGS

1. A district court lacks jurisdiction to address the merits of a second or successive § 2254 petition unless the court of appeals has granted the required authorization.
2. Dismissal, rather than transfer, was appropriate because transfer of the unauthorized successive petition was not in the interest of justice.
3. A certificate of appealability should be denied when the petitioner fails to make the required substantial showing and fails to show that reasonable jurists would debate both the constitutional claim and the procedural ruling.

KEY QUOTATIONS

“A district court does not have jurisdiction to address the merits of a second or successive . . . 28 U.S.C. § 2254 claim until [the Tenth Circuit] has granted the required authorization.” (1251)

“When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” (484)

FACTUAL BACKGROUND

Kevin Thomas Macklin, a state prisoner proceeding pro se, filed a petition seeking federal habeas relief under 28 U.S.C. § 2254. The petition was treated as a second or successive habeas petition for which authorization from the Tenth Circuit had not been obtained. Macklin did not object to the magistrate judge's recommendation or request additional time to object.

PROCEDURAL HISTORY

Macklin filed the § 2254 petition on August 27, 2025. Magistrate Judge Suzanne Mitchell issued a Report and Recommendation on September 18, 2025, recommending dismissal because the petition was second or successive and unauthorized, and concluding that transfer was not in the interest of justice. Macklin did not timely object or seek additional time. The district court adopted the Report and Recommendation in its entirety and entered a final adverse order.

DISPOSITION

dismissed

CASES CITED

- In re Cline, 531 F.3d 1249, 1251 (10th Cir. 2008)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

OPINION

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA
KEVIN THOMAS MACKLIN,)) Petitioner,)) v.) Case No. CIV-25-974-G) CASEY
HAMILTON, Warden,)) Respondent.) ORDER On August 27, 2025, Petitioner Kevin Thomas
Macklin, a state prisoner appearing pro se, filed a petition seeking federal habeas corpus relief
under 28 U.S.C. § 2254. See Pet.

(Doc. No. 1). In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings. On September 18, 2025, Judge Mitchell issued a Report and Recommendation (Doc. No. 5), in which she recommended dismissal of the pleading as an unauthorized second or successive habeas petition. See 28 U.S.C. § 2244(b); see also In re Cline, 531 F.3d 1249, 1251 (10th Cir.

2008) (“A district court does not have jurisdiction to address the merits of a second or successive... 28 U.S.C. § 2254 claim until [the Tenth Circuit] has granted the required authorization.”). Judge Mitchell further determined that transfer was not in the interest of justice. See R. & R. at 6-7.

In the Report and Recommendation, Judge Mitchell advised Petitioner of his right to object to the Report and Recommendation by October 9, 2025. Judge Mitchell also advised that a failure to timely object would constitute a waiver of the right to appellate review of the factual findings and legal conclusions contained in the Report and Recommendation.

As of this date, Petitioner has not submitted an objection to the Report and Recommendation or sought leave for additional time to do so. CONCLUSION Accordingly, the Report and Recommendation (Doc. No. 5) is ADOPTED in its entirety.

The Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 (Doc. No. 1) is DISMISSED without prejudice for lack of jurisdiction. A separate judgment shall be entered. Rule 11(a) of the

Rules Governing Section 2254 Cases in the United States District Courts requires the Court to issue or deny a certificate of appealability when it enters a final order adverse to a petitioner.

A certificate of appealability may issue only upon “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Upon review, the Court concludes that the requisite standard is not met in this case. Thus, a certificate of appealability is DENIED. IT IS SO ORDERED this 21st day of November, 2025.
CHARLES B. GOODWIN United States District Judge