

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Christopher Shane Rivera v. Jeffrey Macomber

No. 5:23-cv-00463-SSS (DTB), United States District Court for the Central District of California (August 11, 2025)

SUMMARY

The United States District Court for the Central District of California accepts the magistrate judge’s findings and recommendation in a federal habeas proceeding. The court grants the respondent’s motion to dismiss and dismisses the petition with prejudice, concluding that it was untimely, that state resentencing proceedings did not restart the limitations period, and that the asserted resentencing claims were not cognizable on federal habeas review.

CASE DETAILS

|                       |                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Central District of California                                                                                                                                              |
| WRITING FOR THE COURT | Sunshine Sykes                                                                                                                                                                                                   |
| JURISDICTION          | United States District Court for the Central District of California                                                                                                                                              |
| DECIDED               | August 11, 2025                                                                                                                                                                                                  |
| DOCKET                | 5:23-cv-00463-SSS (DTB)                                                                                                                                                                                          |
| DISPOSITION           | dismissed                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Petitioner sought federal habeas relief under 28 U.S.C. § 2254. After the magistrate judge recommended dismissal as untimely and with prejudice, petitioner filed objections, which the district court rejected. |
| STANDARD OF REVIEW    | De novo review of the portions of the Report and Recommendation to which objections were made.                                                                                                                   |
| PRECEDENTIAL VALUE    | Nonprecedential district court order                                                                                                                                                                             |
| PARTIES               | Christopher Shane Rivera v. Leanna Lundy, Acting United States Warden                                                                                                                                            |

TOPICS

- federal habeas corpus
- statute of limitations
- sentence modification
- motions to dismiss
- post-conviction relief

## PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Statute of limitations

## QUESTIONS PRESENTED

1. Whether petitioner's later California habeas petitions could restart the federal habeas statute of limitations after the limitations period had expired.
2. Whether the denial of resentencing relief created a new intervening judgment that restarted the federal habeas limitations period.
3. Whether petitioner's California Penal Code § 1172.6 resentencing claims were cognizable in federal habeas review.
4. Whether petitioner's ignorance of the law and alleged ineffective assistance of appellate counsel constituted extraordinary circumstances warranting equitable tolling.

## HOLDINGS

1. State habeas petitions filed after the federal statute of limitations had expired did not restart or reinitiate the limitations period.
2. The denial of resentencing relief did not create a new intervening judgment and therefore did not restart the federal habeas statute of limitations.
3. Alleged errors in the denial of state resentencing relief under California Penal Code § 1172.6 were not cognizable on federal habeas review.
4. Petitioner's ignorance of the law and alleged failure of appellate counsel to raise issues were not extraordinary circumstances warranting equitable tolling.

## KEY QUOTATIONS

“Thus, “the statute of limitations had already lapsed and could not be reinitiated.”” (at 2)

“The claims are not cognizable on federal habeas review, regardless of when Petitioner raised them.” (at 2)

“these circumstances are not extraordinary circumstances warranting equitable tolling.” (at 2)

## FACTUAL BACKGROUND

Petitioner's state habeas petitions were filed in the California Supreme Court in September 2017 and January 2023, after the federal statute-of-limitations deadline expired in September 2013. His state resentencing request was denied and did not result in a new intervening judgment. Petitioner also asserted resentencing claims under California Penal Code § 1172.6 and relied on ignorance of the law and ineffective assistance of appellate counsel to support equitable tolling.

## PROCEDURAL HISTORY

The United States Magistrate Judge recommended dismissal of the habeas petition as untimely and dismissal of the action with prejudice. Petitioner objected that his California habeas filings, resentencing proceedings,

resentencing claims, ignorance of the law, and appellate counsel's ineffectiveness affected timeliness or equitable tolling. The district court conducted de novo review of the objected-to portions, accepted the findings and recommendations, granted respondent's motion to dismiss, and ordered judgment dismissing the petition with prejudice.

## DISPOSITION

dismissed

## CASES CITED

- *Ferguson v. Palmateer*, 321 F.3d 820, 823 (9th Cir. 2003)
- *Cole v. Sullivan*, 480 F. Supp. 3d 1089, 1096 (C.D. Cal. 2020)
- *Nguyen v. Acevedo*, 2023 WL 8478535, at \*2 (E.D. Cal. Dec. 6, 2023)
- *Hernandez v. Koenig*, 2023 WL 7169573, at \*5 (C.D. Cal. Sept. 11, 2023)
- *Branham v. Montana*, 996 F.3d 959, 968 (9th Cir. 2021)
- *Thompson v. Guzman*, 2025 WL 1126527, at \*1 (C.D. Cal. Mar. 20, 2025)
- *Rasberry v. Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006)
- *Long v. Paramo*, 2018 WL 4772285, at \*2 (C.D. Cal. Oct. 2, 2018)