

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Sergio Barbosa v. M. McVay

Barbosa v. McVay, No. 2:24-cv-07265-CAS-SSC (C.D. Cal. July 25, 2025) · No. 2:24-cv-07265-CAS-SSC ·
Decided July 25, 2025

SUMMARY

The United States District Court for the Central District of California accepted a magistrate judge’s Report and Recommendation and denied Sergio Barbosa’s federal habeas corpus petition with prejudice. The court held that the petition was barred by the Antiterrorism and Effective Death Penalty Act’s one-year statute of limitations and that equitable tolling and the petitioner’s other objections did not excuse the delay. Judgment was ordered dismissing the action with prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Christina A. Snyder
JURISDICTION	United States District Court for the Central District of California
DECIDED	July 25, 2025
DOCKET	2:24-cv-07265-CAS-SSC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation denying a state prisoner's federal habeas petition. After conducting de novo review of the portions to which the petitioner objected, the district court accepted the report and recommendation and denied the petition with prejudice.
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's report and recommendation to which specific objections were made under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3).
PRECEDENTIAL VALUE	Unknown
PARTIES	Sergio Barbosa v. M. McVay, et al.

TOPICS

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

PRACTICE AREAS

federal habeas corpus

post-conviction relief

statute of limitations

criminal procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the federal habeas petition was barred by AEDPA's one-year statute of limitations.
2. Whether the alleged late discovery of a breach of the plea agreement triggered a later limitations period under 28 U.S.C. § 2244(d)(1)(D).
3. Whether equitable tolling was warranted based on alleged ineffective assistance of counsel, unsafe prison conditions, youth, lack of legal sophistication, or other mitigating circumstances.
4. Whether later California legislative changes, including the Racial Justice Act, supplied a basis for federal habeas relief.
5. Whether the alleged use of prior robbery convictions to enhance a later sentence violated double jeopardy or rendered the earlier guilty pleas involuntary or unknowing.

HOLDINGS

1. The petition was barred by AEDPA's one-year statute of limitations because it was filed more than one year after the applicable judgment became final, and it remained untimely even under the later date petitioner proposed for discovering the alleged plea-agreement breach.
2. Equitable tolling was unavailable because petitioner did not show both diligent pursuit of his rights and an extraordinary circumstance that prevented timely filing.
3. The cited state-law changes did not provide a basis for federal habeas relief, which is limited to violations of the Constitution, laws, or treaties of the United States. Even assuming the Racial Justice Act applied retroactively and could be considered on federal habeas review, petitioner presented no evidence of race-, ethnicity-, or national-origin-based bias.
4. The use of prior convictions in a recidivist sentencing scheme did not present a plausible double-jeopardy challenge, and a guilty plea was not rendered involuntary or unknowing merely because the defendant was unaware that the conviction could later be used to enhance a sentence under California's Three Strikes law.

KEY QUOTATIONS

“Pursuant to the Antiterrorism and Death Penalty Act of 1996 (“AEDPA”), timeliness is a threshold question that must be decided before reaching the merits of a habeas petitioner’s claim.” (at 4)

“To demonstrate an extraordinary circumstance, petitioner must show “an occurrence ‘beyond [his] control’ that ‘prevent[ed] [him] from filing on time.’” (at 6)

“a pro se petitioner’s lack of legal sophistication is not, by itself, an extraordinary circumstance warranting equitable tolling.” (at 7)

“The possibility that the defendant will be convicted of another offense in the future and will receive an enhanced sentence based on an instant conviction is not a direct consequence of a guilty plea.” (at 9)

FACTUAL BACKGROUND

In October 1992, Barbosa pleaded guilty in Los Angeles County Superior Court to two counts of second-degree robbery and received concurrent seven-year prison sentences in March 1993. In 1998, he was convicted of a lewd act on a child, and his prior robbery convictions were used as strikes in imposing a sentence of 35 years to life. Barbosa filed the federal habeas petition in August 2024, challenging the robbery convictions and asserting, among other grounds, an allegedly breached plea agreement, falsified transcripts, actual innocence, misconduct, and racial bias.

PROCEDURAL HISTORY

Barbosa pleaded guilty in Los Angeles County Superior Court to two second-degree robbery counts in 1992 and was sentenced in 1993. After later proceedings involving a three-strikes sentence, an untimely appeal, and additional state filings, he filed this federal habeas petition on August 23, 2024. Magistrate Judge Stephanie S. Christensen recommended denial because the petition was barred by AEDPA's statute of limitations; Barbosa objected, and the district court overruled the objections and accepted the recommendation.

DISPOSITION

dismissed

CASES CITED

- Ford v. Gonzalez, 683 F.3d 1230, 1238 (9th Cir. 2012)
- Miranda v. Castro, 292 F.3d 1063, 1068 (9th Cir. 2002)
- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)
- Chith v. Haynes, 2021 WL 4744596, at *1 (W.D. Wash. Oct. 12, 2021)
- Holland v. Florida, 560 U.S. 631, 649 (2010)
- Trujeque-Magana v. Bennett, No. 22-35742, 2024 WL 3450994 (9th Cir. July 18, 2024)
- Bills v. Clark, 628 F.3d 1092, 1096 (9th Cir. 2010)
- Luna v. Kernan, 784 F.3d 640, 646 (9th Cir. 2015)
- Spitsyn v. Moore, 345 F.3d 796, 799 (9th Cir. 2003)
- Doe v. Busby, 661 F.3d 1001, 1015 (9th Cir. 2011)
- Bent v. Garland, 115 F.4th 934, 943 (9th Cir. 2024)
- Smith v. Davis, 953 F.3d 582, 599 (9th Cir. 2020)
- Rasberry v. Garcia, 448 F.3d 1150, 1154 (9th Cir. 2006)
- De Santiago v. Smith, No. CV 23-5423-ODW (AGR), 2024 WL 3015326, at *5 (C.D. Cal. May 2, 2024)
- United States v. Kaluna, 192 F.3d 1188, 1198 (9th Cir. 1999)
- Witte v. United States, 515 U.S. 389, 399 (1995)
- United States v. Brownlie, 915 F.2d 528 (9th Cir. 1990)
- United States v. Garrett, 680 F.2d 64, 65-66 (9th Cir. 1982)
- Sanchez v. Hedgpeth, 706 F. Supp. 2d 963, 992 (C.D. Cal. 2010)

- Fleming v. Diaz, No. CV 13-3897-PA (AS), 2014 WL 7149461, at *3 (C.D. Cal. Dec. 13, 2014)

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