

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Wilfredo Rodriguez v. T. Cisneros

Rodriguez v. Cisneros · No. 2:22-cv-06540-MWF (GJS) · Decided March 8, 2023

SUMMARY

The United States District Court for the Central District of California dismissed Wilfredo Rodriguez’s 28 U.S.C. § 2254 habeas petition with prejudice as untimely. The court held that statutory and equitable tolling did not render the petition timely and denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Michael W. Fitzgerald
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 8, 2023
DOCKET	2:22-cv-06540-MWF (GJS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254 from a 2018 California conviction. After issuing an order to show cause concerning apparent untimeliness and receiving no response, the district court dismissed the petition with prejudice and denied a certificate of appealability.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, a petition may be summarily dismissed when it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief. A district court may sua sponte dismiss a facially untimely habeas petition after giving the petitioner an opportunity to be heard. Equitable tolling requires reasonable diligence and an extraordinary circumstance that actually caused the untimely filing.
PARTIES	Wilfredo Rodriguez v. T. Cisneros

QUESTIONS PRESENTED

1. Whether the § 2254 petition was untimely under the one-year limitations period in 28 U.S.C. § 2244(d)(1)(A), accounting for statutory tolling under § 2244(d)(2).

2. Whether Rodriguez was entitled to equitable tolling based on his placement in segregated housing, restricted law-library access, mistake in filing a state habeas petition, pro se status, or legal ignorance.
3. Whether the petition should be summarily dismissed under Rule 4 and whether a certificate of appealability should issue.

HOLDINGS

1. The petition was untimely under 28 U.S.C. § 2244(d)(1)(A). The conviction became final on May 11, 2021, the limitations period began on May 12, 2021, and statutory tolling for the state habeas petition left a filing deadline of June 21, 2022. Because Rodriguez filed on September 6, 2022, the petition was 77 days late.
2. Rodriguez was not entitled to equitable tolling because he failed to establish both reasonable diligence and an extraordinary circumstance that actually caused the untimely filing.
3. Because the petition was facially untimely and equitable tolling was unavailable, Rule 4 required summary dismissal with prejudice. A certificate of appealability was denied.

KEY QUOTATIONS

“A habeas petitioner may receive equitable tolling only if he “shows ‘(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way’ and prevented timely” (at 5)

FACTUAL BACKGROUND

Rodriguez's state conviction became final after the California Supreme Court denied review on February 10, 2021, and the ninety-day period for seeking review in the United States Supreme Court expired on May 11, 2021. His federal limitations period began running on May 12, 2021. A state habeas petition filed on February 2, 2022 tolled the period through its denial on March 14, 2022, leaving Rodriguez until June 21, 2022 to file federally. He signed and mailed the federal petition on September 6, 2022, making it 77 days late, and did not establish facts supporting equitable tolling.

PROCEDURAL HISTORY

Rodriguez was convicted in Los Angeles County Superior Court Case No. KA113129. The California Court of Appeal affirmed the conviction on November 30, 2020, with directions to correct the abstract of judgment, and the California Supreme Court denied review on February 10, 2021. Rodriguez filed a state trial-court habeas petition on February 2, 2022; it was denied on March 14, 2022. He filed the federal petition on September 6, 2022 under the mailbox rule. The magistrate judge issued an order to show cause regarding timeliness, but Rodriguez did not respond.

DISPOSITION

dismissed

