

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA,
MISSOULA DIVISION

Danny Lee Warner v. Warden Harold May, Montana Attorney
General

CV 24-126-M-DLC · No. 9:24-cv-00126 · Decided December 17, 2025

SUMMARY

The United States District Court for the District of Montana denied Danny Lee Warner’s motion under Federal Rules of Civil Procedure 59(e) and 60 to set aside or amend the judgment dismissing his 28 U.S.C. § 2254 habeas petition as untimely. The court held that Warner had received an opportunity to address timeliness, and that he had not shown newly discovered evidence, an intervening change in controlling law, clear error, or manifest injustice. The court also discussed the effect of the motion on the pending notice of appeal under Federal Rule of Appellate Procedure 4.

CASE DETAILS

COURT	United States District Court for the District of Montana, Missoula Division
WRITING FOR THE COURT	Dana L. Christensen
JURISDICTION	United States District Court for the District of Montana, Missoula Division
DECIDED	December 17, 2025
DOCKET	9:24-cv-00126
DISPOSITION	other
PROCEDURAL POSTURE	Motion to alter or amend judgment under Rules 59(e) and 60(b) following dismissal of habeas petition as untimely.
PRECEDENTIAL VALUE	unpublished
PARTIES	Danny Lee Warner v. Warden Harold May, Montana Attorney General

TOPICS

- federal habeas corpus
- motion for reconsideration
- motion to amend
- post-conviction relief
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court erred by dismissing the habeas petition without notice or opportunity to respond
2. Whether Warner presented grounds sufficient to warrant alteration or amendment of the judgment under Rule 59(e)

HOLDINGS

1. Warner's argument that he was denied an opportunity to respond to the timeliness issue is without merit because the State raised timeliness in its Answer, Warner responded to the statute of limitations argument, and the court considered both parties' positions before dismissing the petition.
2. Warner's motion to alter or amend the judgment is denied because he merely reargues previously rejected claims without presenting newly discovered evidence, intervening changes in controlling law, or clear error by the court.

KEY QUOTATIONS

"[o]nce a notice of appeal is filed, the district court is divested of jurisdiction over the matters being appealed."

"A rule 59(e) motion is discretionary and need not be granted unless the district court finds that there is an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice."

"Such a motion requires 'a substantive change of mind' by the Court."

"The requirement of such a showing is a 'high hurdle.'"

FACTUAL BACKGROUND

Danny Lee Warner filed a habeas corpus petition under 28 U.S.C. §2254. The State raised timeliness as a defense in its Answer, and Warner responded arguing for equitable tolling. The court considered both positions and dismissed the petition as untimely. Warner then filed a notice of appeal and a motion to set aside the judgment.

PROCEDURAL HISTORY

Petitioner filed a §2254 habeas petition. The court dismissed it as untimely after considering the State's answer and petitioner's reply. Petitioner appealed and then filed a motion to set aside the judgment under Rules 59(e) and 60(b).

DISPOSITION

other

CASES CITED

- Nat. Res. Def. Council, Inc. v. Sw. Marine Inc., 242 F. 3d 1163 (9th Cir. 2001)
- Foman v. Davis, 371 U.S. 178 (1962)
- McDowell v. Calderon, 197 F. 3d 1253 (9th Cir. 1999)
- Exxon Shipping Co. v. Baker, 554 U.S. 471 (2008)
- Miller v. Transamerican Press, Inc., 709 F. 2d 524 (9th Cir. 1983)
- United Nat. Ins. Co. v. Spectrum Worldwide, Inc., 555 F. 3d 772 (9th Cir. 2009)
- 389 Orange Street Partners v. Arnold, 179 F. 3d 656 (9th Cir. 1999)
- Weeks v. Bayer, 246 F. 3d 1231 (9th Cir. 2001)

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