

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Barry Owen Steen v. Jesse Howes

Steen v. Howes · No. 25-3264-JWL · Decided February 2, 2026

SUMMARY

The United States District Court for the District of Kansas dismissed Barry Owen Steen’s 28 U.S.C. § 2254 habeas petition with prejudice as untimely. The court found that Steen had not established grounds for equitable tolling or the actual-innocence exception and denied a certificate of appealability.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                        |
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| COURT                 | United States District Court for the District of Kansas                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | John W. Lungstrum                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | United States District Court for the District of Kansas                                                                                                                                                                                                                                                |
| DECIDED               | February 2, 2026                                                                                                                                                                                                                                                                                       |
| DOCKET                | 25-3264-JWL                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Petitioner sought federal habeas relief under 28 U.S.C. § 2254. After the court issued an order to show cause regarding the apparent untimeliness of the petition, petitioner responded, and the court dismissed the petition with prejudice as time-barred and denied a certificate of appealability. |
| STANDARD OF REVIEW    | For a habeas petition dismissed on procedural grounds, a certificate of appealability requires a showing that reasonable jurists could debate both whether the petition states a valid constitutional claim and whether the district court's procedural ruling is correct.                             |
| PRECEDENTIAL VALUE    | Unpublished district court memorandum and order; limited persuasive value.                                                                                                                                                                                                                             |
| PARTIES               | Barry Owen Steen v. Jesse Howes                                                                                                                                                                                                                                                                        |

TOPICS

- federal habeas corpus
- statute of limitations
- actual innocence
- post-conviction relief

## PRACTICE AREAS

federal habeas corpus

post-conviction relief

statute of limitations

actual innocence

## QUESTIONS PRESENTED

1. Whether Steen's § 2254 petition was untimely under the federal habeas statute of limitations.
2. Whether Steen established grounds for equitable tolling of the statute of limitations.
3. Whether Steen could proceed through the actual-innocence exception to the statute of limitations.
4. Whether a certificate of appealability should issue after dismissal on procedural grounds.

## HOLDINGS

1. The petition was untimely because the federal habeas statute of limitations expired in August 2025 and Steen filed his petition on December 5, 2025.
2. Equitable tolling was unavailable because Steen did not assert extraordinary circumstances warranting tolling.
3. Steen could not invoke the actual-innocence gateway because he did not assert or demonstrate a colorable claim of actual innocence.
4. No certificate of appealability should issue because the court's procedural ruling was not debatable among jurists of reason.

## KEY QUOTATIONS

*“Because Petitioner has not asserted the type of extraordinary circumstances under which equitable tolling would be appropriate and has not shown that he should be allowed through the actual innocence gateway, this matter must be dismissed with prejudice as untimely filed.”*

## FACTUAL BACKGROUND

Steen, a Kansas state prisoner proceeding pro se, filed a federal habeas petition seeking relief that included jail-time credit. The petition was filed after the court determined that the federal habeas statute of limitations had expired in August 2025. In response to the court's order to show cause, Steen did not identify extraordinary circumstances supporting equitable tolling or make a colorable actual-innocence showing.

## PROCEDURAL HISTORY

Steen filed a pro se § 2254 petition on December 5, 2025. The court determined that the applicable federal habeas statute of limitations appeared to have expired in August 2025 and issued an order to show cause. Steen responded on January 28, 2026, but did not dispute the untimeliness determination, establish grounds for equitable tolling, or invoke the actual-innocence exception. The court dismissed the matter with prejudice and declined to issue a certificate of appealability.

## DISPOSITION

dismissed

#### CASES CITED

- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Garrett v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005)
- Haney v. Addison, 175 F.3d 1217, 1219-21 (10th Cir. 1999)
- Navarette v. Horton, 2023 WL 1773856, at \*1 (10th Cir. 2023)
- Slack v. McDaniel, 529 U.S. 473, 484-85 (2000)

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