

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Tennyson v. Raemisch

No. 17-1347, United States Court of Appeals for the Tenth Circuit (April 24, 2018)

SUMMARY

Tennyson v. Raemisch (10th Cir. 2018) addresses the AEDPA one-year statute of limitations for § 2254 habeas petitions. The court held that the petition was untimely because it was filed over six years after the conviction became final, and state post-conviction motions only tolled 110 days of the limitations period. Equitable tolling was denied because ignorance of the law, limited library access, and attorney misstatements did not constitute extraordinary circumstances, and the petitioner failed to show diligent pursuit of rights. The court also rejected arguments that structural error or a competency claim could bypass the limitations period without a showing of actual innocence.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Carlos F. Lucero; Bobby R. Baldock; Robert E. Bacharach
JURISDICTION	Federal
DECIDED	April 24, 2018
DOCKET	17-1347
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from denial of certificate of appealability in § 2254 habeas proceeding
STANDARD OF REVIEW	Abuse of discretion for equitable tolling; Slack v. McDaniel standard for COA on procedural grounds
PRECEDENTIAL VALUE	unpublished
PARTIES	Audrey Lee Tennyson v. Rick Raemisch, Executive Director CDOC; The Attorney General of the State of Colorado

TOPICS

- habeas corpus
- criminal procedure
- statute of limitations
- appellate procedure
- standard of review

PRACTICE AREAS

- Habeas Corpus
- Criminal Procedure

QUESTIONS PRESENTED

1. Whether the district court correctly dismissed the § 2254 petition as untimely under AEDPA's one-year limitations period.
2. Whether Tennyson was entitled to equitable tolling of the limitations period.
3. Whether structural error in state court proceedings excuses the untimeliness.

HOLDINGS

1. The petition is untimely because the one-year AEDPA limitations period expired before the petition was filed.
2. Tennyson failed to demonstrate extraordinary circumstances or diligent pursuit of his rights to warrant equitable tolling.
3. Structural error does not constitute an allegation of actual innocence sufficient to trigger the miscarriage-of-justice exception to the AEDPA limitations period.

KEY QUOTATIONS

"We will issue a COA only upon a 'substantial showing of the denial of a constitutional right.' 28 U.S.C. § 2253(c)(2)." (at 2)

"Because the district court denied Tennyson's petition on procedural grounds, he must demonstrate that it is reasonably debatable: (1) whether the petition states a valid claim of the denial of a constitutional right; and (2) whether the district court's procedural ruling is correct." (at 2)

"[A] judgment becomes final when the defendant has exhausted all direct appeals in state court and the time to petition for a writ of certiorari from the United States Supreme Court has expired (which is 90 days after the decision by the State's highest court)." (at 3)

"Tennyson is entitled to equitable tolling if he shows 'that he has been pursuing his rights diligently' and 'some extraordinary circumstance stood in his way and prevented timely filing.'" (at 4)

"[I]gnorance of the law, even for an incarcerated pro se petitioner, generally does not excuse prompt filing." (at 5)

FACTUAL BACKGROUND

In February 2008, Tennyson pled guilty in Colorado state court to two counts of aggravated robbery and was sentenced to 26 years' imprisonment. He did not directly appeal. He later filed a motion for sentence reduction (denied), a motion to withdraw his guilty plea (denied after correction of judgment), and several state post-conviction motions under Colo. R. Crim. P. 35(c) in 2011, 2014, and a state habeas petition in 2015, all of which were denied or dismissed. He filed a § 2254 petition in federal district court on August 26, 2016.

PROCEDURAL HISTORY

Tennyson filed a § 2254 petition in federal district court, which dismissed it as time-barred and denied a COA. He filed a Rule 59(e) motion, which was denied, and then appealed.

DISPOSITION

dismissed

CASES CITED

- Slack v. McDaniel, 529 U.S. 473 (2000)
- Woodward v. Cline, 693 F.3d 1289 (10th Cir. 2012)
- Jimenez v. Quarterman, 555 U.S. 113 (2009)
- Clark v. Oklahoma, 468 F.3d 711 (10th Cir. 2006)
- Marsh v. Soares, 223 F.3d 1217 (10th Cir. 2000)
- Fleming v. Evans, 481 F.3d 1249 (10th Cir. 2007)
- Al-Yousif v. Trani, 779 F.3d 1173 (10th Cir. 2015)
- McQuiggin v. Perkins, 569 U.S. 383 (2013)
- Nguyen v. Reynolds, 131 F.3d 1340 (10th Cir. 1997)
- Sena v. N.M. State Prison, 109 F.3d 652 (10th Cir. 1997)
- Bronson v. Swensen, 500 F.3d 1099 (10th Cir. 2007)