

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Sholes v. Andes

Sholes · No. 1:24-cv-01098-JLT-CDB (HC) · Decided July 28, 2025

SUMMARY

The United States District Court for the Eastern District of California issued an order to show cause regarding Tyrone Anthony Sholes's § 2254 habeas petition. The court determined that the petition appeared untimely under AEDPA because the limitations period expired in 2018, and allowed Petitioner 21 days to explain why the petition should not be dismissed or why equitable tolling should apply.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 28, 2025
DOCKET	1:24-cv-01098-JLT-CDB (HC)
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2254 habeas petition challenging 2014 state convictions. On preliminary screening, the district court found the petition appeared untimely under AEDPA and issued an order to show cause rather than dismissing it immediately.
STANDARD OF REVIEW	Preliminary screening under Rule 4 of the Rules Governing § 2254 Cases; the court may dismiss when it plainly appears from the petition that the petitioner is not entitled to relief, but must provide notice and an opportunity to respond before sua sponte dismissing on timeliness grounds.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order

TOPICS

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

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief
- civil procedure

QUESTIONS PRESENTED

1. Whether the court may raise the AEDPA statute of limitations sua sponte during preliminary screening of a state habeas petition.
2. Whether the petition appears untimely under 28 U.S.C. § 2244(d) when the conviction became final on October 23, 2017 and the federal petition was filed on August 20, 2024.
3. Whether petitioner should be given an opportunity to establish statutory delayed commencement, statutory tolling, or equitable tolling before dismissal.

HOLDINGS

1. A district court may raise the timeliness of a state prisoner's federal habeas petition sua sponte, but must provide fair notice and an opportunity for the petitioner to present arguments before dismissing on that basis.
2. The petition appears untimely because the one-year limitations period began after the conviction became final on October 23, 2017 and expired on October 23, 2018, while the federal petition was not filed until August 20, 2024.
3. State habeas petitions filed after the AEDPA limitations period has expired do not revive the limitations period and do not make a later federal petition timely.
4. The court did not decide whether petitioner qualifies for delayed commencement under § 2244(d)(1)(B)-(D) or equitable tolling; it required petitioner to show cause and address those possibilities before dismissal.

KEY QUOTATIONS

“district courts are permitted, but not obliged, to consider, sua sponte, the timeliness of a state prisoner’s habeas petition” (at 1)

“before acting on its own initiative, ... must accord the parties fair notice and an opportunity to present their positions” (at 1)

“state habeas petitions filed after the one-year statute of limitations expired do not revive the statute of limitations and have no tolling effect” (at 2)

FACTUAL BACKGROUND

Petitioner Tyrone Anthony Sholes is a state prisoner challenging 2014 convictions from the Tulare County Superior Court. His direct appeal was affirmed in 2016, and the California Supreme Court declined review in 2017. He filed the federal habeas petition on August 20, 2024 and identified no state collateral proceedings until 2023 or later.

PROCEDURAL HISTORY

Petitioner's convictions were affirmed on direct appeal on June 20, 2016, and the California Supreme Court declined review on July 25, 2017. The conviction became final when the time to seek certiorari expired on October 23, 2017, making the federal limitations period appear to expire on October 23, 2018. Petitioner filed

the federal habeas petition on August 20, 2024 and identified state collateral proceedings beginning in 2023 or later. The court ordered petitioner to show cause within 21 days why the petition should not be dismissed as untimely.

DISPOSITION

other

CASES CITED

- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Boyd v. Thompson, 147 F.3d 1124, 1127 (9th Cir. 1988)
- Day v. McDonough, 547 U.S. 198, 210 (2006)
- Holland v. Florida, 560 U.S. 631, 649 (2010)
- Bowen v. Roe, 188 F.3d 1157, 1159 (9th Cir. 1999)
- Patterson v. Stewart, 251 F.3d 1243, 1246 (9th Cir. 2001)
- Larsen v. Soto, 742 F.3d 1083, 1088 (9th Cir. 2013)

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