

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Daniel E. Preciado v. M. Gamboa

No. 5:24-cv-1504-SRM-AGR (C.D. Cal. June 23, 2025) · No. 5:24-cv-1504-SRM-AGR · Decided June 23, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Daniel E. Preciado’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 with prejudice as untimely under the AEDPA statute of limitations. The court also determined that the claims appeared to be wholly unexhausted in state court. The order was without prejudice to Petitioner’s state-court resentencing petition under California Penal Code § 1172.1.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Serena R. Murillo
JURISDICTION	United States District Court for the Central District of California
DECIDED	June 23, 2025
DOCKET	5:24-cv-1504-SRM-AGR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254 from a California state-court judgment and sentence. The district court dismissed the petition with prejudice as untimely under AEDPA.
STANDARD OF REVIEW	The court applied AEDPA's one-year statute of limitations and considered statutory and equitable tolling. It also applied the exhaustion requirement for state habeas claims.
PRECEDENTIAL VALUE	unknown
PARTIES	Daniel E. Preciado v. M. Gamboa

TOPICS

- federal habeas corpus
- statute of limitations
- post-conviction relief
- state post-conviction relief
- criminal procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

QUESTIONS PRESENTED

1. Whether the federal habeas petition was barred by AEDPA's one-year statute of limitations.
2. Whether delayed accrual, statutory tolling, or equitable tolling rendered the petition timely.
3. Whether the petition was wholly unexhausted because Petitioner had not presented his claims to the California Supreme Court.

HOLDINGS

1. The petition was untimely because the state-court judgment became final on April 18, 2016, the one-year limitations period expired on April 18, 2017, and Petitioner did not constructively file the federal petition until July 3, 2024.
2. Delayed accrual under 28 U.S.C. § 2244(d)(1)(D) did not apply because the record contained no basis for finding that the factual predicates of Petitioner's claims could have been discovered after the conviction and sentence became final.
3. Petitioner was not entitled to statutory tolling because he did not identify any properly filed state post-conviction or collateral-review application pending during the federal limitations period.
4. Petitioner was not entitled to equitable tolling because the record did not establish that he pursued his rights diligently or that an extraordinary circumstance caused the untimely filing.
5. The petition appeared to be wholly unexhausted because Petitioner had not presented the same grounds for relief to the California Supreme Court.

KEY QUOTATIONS

“A petitioner who files a federal habeas petition after expiration of the one-year statute of limitations may be entitled to equitable tolling.” (at 5)

“The petitioner must show “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing.”” (at 5)

“To exhaust state remedies, a petitioner must fairly present his contentions to the state courts, and the highest court of the state must dispose of them on the merits.” (at 6)

FACTUAL BACKGROUND

A California jury convicted Daniel E. Preciado of three counts of forcible lewd acts upon a child under California Penal Code section 288(b)(1). He was sentenced on February 6, 2015, to an aggregate term of thirty years. The California Court of Appeal affirmed the judgment on March 8, 2016, and the record indicated that Preciado did not seek California Supreme Court review or present his claims in a state habeas petition. He filed the federal habeas petition no earlier than July 3, 2024, challenging alleged misapplications of California sentencing law and seeking sentence reduction.

PROCEDURAL HISTORY

A San Bernardino County Superior Court jury convicted Petitioner of three counts of forcible lewd acts upon a child, and the court imposed an aggregate thirty-year sentence. The California Court of Appeal affirmed on March 8, 2016, and Petitioner did not seek review in the California Supreme Court or file a state habeas petition there. Petitioner constructively filed this federal petition on July 3, 2024. After Petitioner failed to respond timely to an order to show cause concerning AEDPA timeliness, the district court dismissed the petition with prejudice.

DISPOSITION

dismissed

CASES CITED

- Porter v. Ollison, 620 F.3d 952, 955 n.1 (9th Cir. 2010)
- People v. Preciado, Case No. EO62897, 2016 WL 878327, at *1 (Cal. Ct. App. Mar. 8, 2016)
- Mardesich v. Cate, 668 F.3d 1164, 1171 (9th Cir. 2012)
- Gaston v. Palmer, 417 F.3d 1030, 1033 (9th Cir. 2005)
- Ford v. Gonzalez, 683 F.3d 1230, 1235 (9th Cir. 2012)
- Waldrip v. Hall, 548 F.3d 729, 734 (9th Cir. 2008)
- Jiminez v. Rice, 276 F.3d 478, 482 (9th Cir. 2001)
- Robinson v. Lewis, 795 F.3d 926, 933 n.6 (9th Cir. 2015)
- Holland v. Florida, 560 U.S. 631, 649, 653 (2010)
- Bryant v. Ariz. Att'y Gen., 499 F.3d 1056, 1061 (9th Cir. 2007)
- Miranda v. Castro, 292 F.3d 1063, 1066 (9th Cir. 2002)
- Rose v. Lundy, 455 U.S. 509, 518-22 (1982)
- O'Sullivan v. Boerckel, 526 U.S. 838, 842, 844-45 (1999)
- Stone v. San Francisco, 968 F.2d 850, 856 (9th Cir. 1992)
- Rollins v. Superior Court of Los Angeles, 706 F. Supp. 2d 1008, 1011 (C.D. Cal. 2010)
- Williams v. Craven, 460 F.2d 1253, 1254 (9th Cir. 1972)
- Rasberry v. Garcia, 448 F.3d 1150, 1154 (9th Cir. 2006)