

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Townsel v. Davis

Townsel · No. 1:19-cv-01394-JLT-CDB (HC) · Decided June 27, 2025

SUMMARY

The United States District Court for the Eastern District of California certifies a constitutional challenge to 28 U.S.C. § 2254(d) under Federal Rule of Civil Procedure 5.1. The court directs the Clerk to provide the certification and related filings to the United States Attorney General and sets August 11, 2025, as the deadline for intervention.

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	June 27, 2025
DOCKET	1:19-cv-01394-JLT-CDB (HC)
DISPOSITION	other
PROCEDURAL POSTURE	In a federal habeas corpus proceeding under 28 U.S.C. § 2254, the petitioner objected to findings and recommendations recommending denial of the petition and filed a notice challenging the constitutionality of 28 U.S.C. § 2254(d). The court issued an order certifying the constitutional challenge to the United States Attorney General under Federal Rule of Civil Procedure 5.1 and 28 U.S.C. § 2403.
STANDARD OF REVIEW	The referenced findings and recommendations applied the deferential standard under 28 U.S.C. § 2254(d), requiring the petitioner to show that the state court's decision was contrary to, or involved an unreasonable application of, clearly established federal law, or was based on an unreasonable determination of the facts. This order did not resolve the habeas merits.
PRECEDENTIAL VALUE	Unpublished federal district court order; precedential status is unknown.
PARTIES	Anthony Letrice Townsel v. Ron Davis

TOPICS

federal habeas corpus

post-conviction relief

constitutional law

civil procedure

PRACTICE AREAS

federal habeas corpus

constitutional law

civil procedure

QUESTIONS PRESENTED

1. Whether the court was required to certify Townsel's constitutional challenge to 28 U.S.C. § 2254(d) to the United States Attorney General under Federal Rule of Civil Procedure 5.1 and 28 U.S.C. § 2403.
2. Whether the Attorney General was entitled to intervene within the period specified by Rule 5.1(c).

HOLDINGS

1. When a party challenges the constitutionality of a federal statute in an action in which the United States is not a party, the court must certify the challenge to the appropriate attorney general under Federal Rule of Civil Procedure 5.1(b) and 28 U.S.C. § 2403. Because Townsel challenged the constitutionality of 28 U.S.C. § 2254(d), the court certified the challenge to the United States Attorney General.
2. The United States Attorney General could elect to intervene to address the constitutional issue within the period provided by Rule 5.1(c); in this case, the court set the deadline as August 11, 2025.

KEY QUOTATIONS

“Here, Petitioner has called into question the constitutionality of 28 U.S.C. § 2254(d). Accordingly, the Court is required to certify the constitutional challenge to the Attorney General.” (at 2)

FACTUAL BACKGROUND

Townsel, a state prisoner proceeding through counsel, sought federal habeas relief under 28 U.S.C. § 2254. The magistrate judge previously recommended denying the petition because Townsel had not satisfied § 2254(d)'s deferential standard. Townsel then asserted that the deference required by § 2254(d) is unconstitutional after *Loper Bright Enterprises v. Raimondo* and filed a Rule 5.1 notice of constitutional question.

PROCEDURAL HISTORY

Townsel filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On February 27, 2025, the magistrate judge issued findings and recommendations recommending that the petition be denied and that no certificate of appealability issue. Townsel objected and filed a notice of constitutional question concerning § 2254(d), prompting this certification order; the merits findings and recommendations remained pending before the presiding district judge.

DISPOSITION

other

CASES CITED

- Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ANTHONY LETRICE TOWNSEL Case No. 1:19-cv-01394-JLT-CDB (HC)
12 Petitioner, ORDER CERTIFYING A CONSTITUTIONAL CHALLENGE TO 13 v. THE
UNITED STATES ATTORNEY GENERAL 14 RON DAVIS 15 Respondent. (Doc. 77) 16 17
Anthony Letrice Townsel is a state prisoner proceeding through counsel with his petition 18 for
writ of habeas corpus pursuant to 28 U.S.C. § 2254.

(Doc. 1). The matter was referred to the 19 undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and
Local Rule 302. On February 27, 2025, 20 the undersigned issued Findings and Recommendations
recommending that the petition for writ 21 of habeas corpus be denied as without merit, and that
the court decline to issue a certificate of 22 appealability. (Doc. 73).

Specifically, the undersigned concluded Petitioner failed to show that 23 the state court’s denial of
each of his claims was either contrary to, or an unreasonable application 24 of, clearly established
federal law or based on an unreasonable determination of the facts as 25 required to satisfy the
deferential standard set forth in 28 U.S.C. § 2254(d). (See *id.* at 9-27).

26 On June 11, 2025, Petitioner filed objections to the Findings and Recommendations and a 27
notice of constitutional question pursuant to Federal Rule of Civil Procedure 5.1. (Docs. 76, 77).
Of relevance here, Petitioner asserts that “this case involves a question of whether it is 1
constitutional for Article III judges to defer to state court decisions under 28 U.S.C. § 2254(d)” in
2 light of the United States Supreme Court’s decision in *Loper Bright Enterprises, et al. v. 3*
Raimondo, 603 U.S. 369 (2024).

(Doc. 77 at 1). 4 Under Federal Rule of Civil Procedure 5.1(a), a party challenging the
constitutionality of a 5 federal statute in an action where the United States is not a party must
promptly file a notice of 6 constitutional question and serve the notice on the United States
Attorney General.

In such 7 circumstances, “[t]he court must, under 28 U.S.C. § 2403, certify to the appropriate
attorney 8 general that a statute has been questioned.” Fed. R. Civ. P. 5.1(b). The Attorney General
may 9 elect to intervene within 60 days after the notice is filed or the court certifies the challenge,
10 whichever is earlier. Fed. R. Civ. P. 5.1(c). 11 Here, Petitioner has called into question the
constitutionality of 28 U.S.C. § 2254(d).

(See 12 Doc. 77 at 1). Accordingly, the Court is required to certify the constitutional challenge to
the 13 Attorney General. The certificate of service accompanying the notice of constitutional

challenge 14 indicates a copy was served on United States Attorney General Pamela Bondi through certified 15 mail on June 11, 2025. (Doc. 77-1).

In accordance with Rule 5.1(c), the Attorney General has 50 16 days, or until August 11, 2025, to intervene in this action. 17 Accordingly, it is ORDERED: 18 1. The Court hereby CERTIFIES to the United States Attorney General that a 19 constitutional challenge to a federal statute has been made; 20 2.

The Clerk of Court is DIRECTED to send a copy of this Order, accompanied by the 21 Notice of Constitutional Challenge (Doc. 77) and the Findings and Recommendations 22 (Doc. 73), to the Office of the United States Attorney General and to the Office of the 23 United States Attorney for the Eastern District of California; 24 /// 25 /// 26 /// 27 1 3. No later than August 11, 2025, the Attorney General may elect to intervene to address 2 the constitutional issue; and 3 4.

If the Attorney General fails to timely intervene or otherwise involve herself in this 4 action, the pending Findings and Recommendations will be deemed submitted before 5 the presiding district judge. 6 | IT IS SO ORDERED. Dated: _ June 27, 2025 | hr g UNITED STATES MAGISTRATE JUDGE 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28