

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Eric Smiley v. Christopher Stevens

Smiley v. Stevens · No. 26-CV-824 · Decided May 13, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin determined that Eric Smiley’s Section 2254 habeas corpus petition was not plainly meritless because he plausibly exhausted state remedies, raised a cognizable claim, and filed within the applicable limitations period. The court ordered the respondent to answer or move to dismiss and established subsequent briefing deadlines.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Byron B. Conway
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	May 13, 2026
DOCKET	26-CV-824
DISPOSITION	other
PROCEDURAL POSTURE	Initial screening of a state prisoner's petition for a writ of habeas corpus under 28 U.S.C. § 2254.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court must dismiss a petition if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief; otherwise, the court orders a response.
PRECEDENTIAL VALUE	Unknown
PARTIES	Eric Smiley v. Christopher Stevens

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- motions to dismiss
- civil procedure

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the petition should be dismissed at the Rule 4 screening stage because it plainly appeared that Smiley was not entitled to federal habeas relief.
2. Whether the respondent should be ordered to answer the petition or otherwise respond.

HOLDINGS

1. The petition could not be dismissed at screening because it did not plainly appear that Smiley was not entitled to relief.
2. The respondent was required either to answer the petition within 60 days or move to dismiss within that period.

KEY QUOTATIONS

“Consequently, the court is unable to say that it is plainly apparent that the petitioner is not entitled to relief.”

FACTUAL BACKGROUND

Eric Smiley is incarcerated pursuant to a judgment of a Wisconsin Circuit Court. He represented that he pursued relief in the Wisconsin Court of Appeals and Wisconsin Supreme Court, had not previously sought federal habeas relief, presented at least one plausibly cognizable claim, and filed within one year after his conviction became final.

PROCEDURAL HISTORY

Smiley filed a federal habeas petition challenging his Wisconsin state-court judgment. The court determined at the Rule 4 screening stage that the petition was not plainly deficient, ordered service on the Wisconsin Attorney General, and directed the respondent to answer or move to dismiss.

DISPOSITION

other

CASES CITED

- Anderson v. Litscher, 281 F.3d 672, 675 (7th Cir. 2002)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN ERIC SMILEY, Petitioner, v. Case No. 26-CV-824 CHRISTOPHER STEVENS, Respondent. ORDER ON THE PETITION FOR A WRIT OF HABEAS CORPUS Eric Smiley, who is incarcerated pursuant to the judgment of a Wisconsin Circuit Court, filed a petition for a writ of habeas corpus. Rule 4 of the Rules Governing Section 2254 Cases states: If it plainly appears from the petition and any

attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.

If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order. Smiley has pursued relief in the Wisconsin Court of Appeals and Wisconsin Supreme Court (ECF No. 1 at 4) and therefore has plausibly exhausted his state court remedies. See 28 U.S.C. § 2254(b)(1)(A).

There is no indication that he has previously sought federal habeas relief. See 28 U.S.C. § 2244(b). His petition contains at least one plausibly cognizable claim. And he represents that he filed his petition within one year of his conviction becoming final following the Wisconsin Supreme Court denying his request for review. (ECF No. 1 at 4); see also 28 U.S.C. § 2244(d); Sup.

Ct. R. 13; *Anderson v. Litscher*, 281 F.3d 672, 675 (7th Cir. 2002). Consequently, the court is unable to say that it is plainly apparent that the petitioner is not entitled to relief. The respondent shall answer the petition.

The Clerk of Court shall promptly serve the respondent by service of a copy of the petition and this order upon the State of Wisconsin Attorney General. No later than 60 days after this order, the respondent shall answer the petition in accordance with Rule 5 of the Rules Governing Section 2254 Cases.

The petitioner shall then submit a brief in support of his petition no later than 28 days thereafter. The respondent shall submit a brief in opposition no later than 28 days thereafter. The petitioner may reply no later than 21 days thereafter. Alternatively, the respondent may move to dismiss the petition no later than 60 days after this order.

In the event the respondent moves to dismiss the petition, the petitioner shall respond to that motion no later than 28 days thereafter. The respondent may then reply no later than 28 days thereafter. Unless the court determines that additional proceedings are necessary, this shall conclude the briefing.

The court will then resolve the petition on the written record. SO ORDERED. Dated at Green Bay, Wisconsin this 13th day of May, 2026. s/ Byron B. Conway BYRON B. CONWAY United States District Judge