

**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

OPINION

Smiley

PER CURIAM.

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