

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

Harjo v. Tinsley

No. 25-CV-0437-CVE-SH (N.D. Okla. May 21, 2026) · No. 25-CV-0437-CVE-SH · Decided May 21, 2026

SUMMARY

The United States District Court for the Northern District of Oklahoma dismissed Richard Harjo’s 28 U.S.C. § 2254 petition challenging his juvenile life-without-parole sentence as barred by the AEDPA statute of limitations. The court rejected Harjo’s relation-back, equitable-tolling, and actual-innocence arguments and held that the petition was untimely under both 28 U.S.C. § 2244(d)(1)(A) and (C). The court granted the respondent’s motion to dismiss, denied a certificate of appealability, and ordered a separate judgment of dismissal.

CASE DETAILS

COURT	United States District Court for the Northern District of Oklahoma
WRITING FOR THE COURT	Claire V. Eagan
JURISDICTION	United States District Court for the Northern District of Oklahoma
DECIDED	May 21, 2026
DOCKET	25-CV-0437-CVE-SH
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. Respondent moved to dismiss the authorized successive petition as untimely under AEDPA's one-year statute of limitations. The district court granted the motion and dismissed the petition.
STANDARD OF REVIEW	The court applied the statutory timeliness requirements under 28 U.S.C. § 2244(d), considered equitable tolling de novo as a legal issue, and evaluated actual-innocence gateway requirements under the demanding Schlup standard.
PRECEDENTIAL VALUE	unpublished district court opinion; persuasive authority only
PARTIES	Richard Harjo v. Scott Tinsley, Warden

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Harjo's authorized successive § 2254 petition was timely under 28 U.S.C. § 2244(d)(1)(A).
2. Whether the Supreme Court's recognition and retroactive application of Miller made the petition timely under § 2244(d)(1)(C).
3. Whether Harjo's claim could relate back to his timely 1999 federal habeas petition.
4. Whether equitable tolling applied.
5. Whether Harjo established actual innocence sufficient to overcome the statute of limitations.
6. Whether a certificate of appealability should issue.

HOLDINGS

1. Authorization by the Tenth Circuit to file a successive habeas petition did not alter the separate AEDPA timeliness inquiry, and Harjo's new Miller-based claim did not relate back to his 1999 petition for limitations purposes.
2. The petition was untimely under § 2244(d)(1)(A) because Harjo's judgment became final in February 1999, the one-year limitations period expired in February 2000, and his later federal and state post-conviction filings did not restart or toll an already expired limitations period.
3. The petition was untimely even under § 2244(d)(1)(C), because the limitations period began when Miller was decided, not when Montgomery later made Miller retroactive, and the period expired in November 2013 after statutory tolling.
4. Equitable tolling was unavailable because Harjo did not show that extraordinary circumstances prevented timely filing or that he diligently pursued his claims.
5. Harjo did not establish actual innocence sufficient to invoke the gateway exception to the AEDPA limitations bar.
6. No certificate of appealability should issue because reasonable jurists would not debate dismissal on statute-of-limitations grounds.

KEY QUOTATIONS

“Authorization does not change the considerations for determining whether a claim is timely.” (at 10-11)

“equitable tolling “is only available when an inmate diligently pursues his claims and demonstrates that the failure to timely file was caused by extraordinary circumstances beyond his control.”” (at 15)

“ “[P]risoners asserting innocence as a gateway to defaulted claims must establish that, in light of new evidence, ‘it is more likely than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt.’ ” ” (at 16)

FACTUAL BACKGROUND

In February 1995, when he was sixteen, Richard Harjo participated in the robbery of a QuikTrip during which the store clerk was murdered. He was convicted of murder under alternative theories and robbery; he received life without parole for murder and life for robbery, with the robbery judgment later ordered dismissed because he could not be sentenced for both felony murder and the underlying felony. Harjo's present petition challenges his life-without-parole sentence under *Miller v. Alabama*, *Montgomery v. Alabama*, and *Jones v. Mississippi*, and asserts actual innocence of the sentence.

PROCEDURAL HISTORY

Harjo was convicted in Tulsa County District Court in 1995 of first-degree murder and robbery and received a sentence of life without parole for murder. The Oklahoma Court of Criminal Appeals affirmed the murder conviction and sentence but reversed and remanded for dismissal of the robbery judgment and sentence. Harjo's first federal habeas petition, filed in 1999, was denied on the merits in 2003. His later state post-conviction applications and a 2024 federal habeas petition were unsuccessful, although the Tenth Circuit authorized him to file the present successive petition. The district court held that authorization did not resolve timeliness and dismissed the present petition as time-barred.

DISPOSITION

dismissed

CASES CITED

- *Gonzalez v. Thaler*, 565 U.S. 134, 150 (2012)
- *Majors v. State*, 465 P.3d 223, 224 (Okla. Crim. App. 2020)
- *Miller v. Alabama*, *Miller v. Alabama*, 567 U.S. 460, 479 (2012)
- *Montgomery v. Alabama*, 577 U.S. 190, 206 (2016)
- *Jones v. Mississippi*, 593 U.S. 98 (2021)
- *Preston v. Gibson*, 234 F.3d 1118, 1120 (10th Cir. 2000)
- *Rhines v. Weber*, 544 U.S. 269, 272 (2005)
- *Clark v. Oklahoma*, 468 F.3d 711, 714 (10th Cir. 2006)
- *Dodd v. United States*, 545 U.S. 353, 357 (2005)
- *Proctor v. Whitten*, No. 21-6033, 2021 WL 5755629, at *2 (10th Cir. Dec. 3, 2021)
- *Berry v. Whitten*, 827 F. App'x 860, 864 (10th Cir. 2020)
- *Gibson v. Klinger*, 232 F.3d 799, 804 (10th Cir. 2000)
- *Marsh v. Soares*, 223 F.3d 1217, 1220 (10th Cir. 2000)

- Vigil v. Jones, 302 F. App'x 801, 804 (10th Cir. 2008)
- McQuiggin v. Perkins, 569 U.S. 383, 386, 392, 399, 401 (2013)
- Beavers v. Saffle, 216 F.3d 918, 923 (10th Cir. 2000)
- Klein v. Neal, 45 F.3d 1395, 1400 (10th Cir. 1995)
- United States v. Richards, 5 F.3d 1369, 1371 (10th Cir. 1993)
- House v. Bell, 547 U.S. 518, 536-38 (2006)
- Fontenot v. Crow, 4 F.4th 982, 1031 (10th Cir. 2021)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)

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