

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Matthew Stephen Hepple v. Attorney General for the State of New Mexico

No. 23-cv-0864-MV-KRS (D.N.M. Dec. 19, 2025) · No. No. 23-cv-0864-MV-KRS · Decided December 19, 2025

SUMMARY

The United States District Court for the District of New Mexico orders the New Mexico Attorney General to answer Matthew Stephen Hepple’s 28 U.S.C. § 2254 habeas petition. The answer must address the merits, timeliness and actual-innocence issues, exhaustion, and include relevant state-court records and transcripts; Hepple may file an optional reply.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Kevin R. Sweazea
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	December 19, 2025
DOCKET	No. 23-cv-0864-MV-KRS
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2254 habeas petition challenging state convictions. After the Court directed him to show cause why the petition should not be dismissed as untimely, he responded by apparently asserting actual innocence. The Court ordered the respondent to answer rather than dismissing the petition at that stage.
PRECEDENTIAL VALUE	unpublished
PARTIES	Matthew Stephen Hepple v. Attorney General for the State of New Mexico

TOPICS

- federal habeas corpus
- actual innocence
- statute of limitations
- post-conviction relief
- double jeopardy

PRACTICE AREAS

- Federal habeas corpus
- Criminal procedure
- Post-conviction relief

QUESTIONS PRESENTED

1. Whether the § 2254 petition should be dismissed as untimely at the show-cause stage.
2. Whether Hepple's apparent actual-innocence assertion could serve as a gateway to consideration of an otherwise time-barred habeas petition.
3. Whether the respondent should be required to provide the state-court record and answer the merits, exhaustion, tolling, and timeliness issues.

HOLDINGS

1. Because the Court lacked the underlying state record and Hepple's response appeared to invoke actual innocence, the Attorney General was required to answer the § 2254 petition rather than the Court dismissing it at that stage.
2. The Attorney General must address the merits of each § 2254 claim, Hepple's arguments concerning tolling and the potential time bar, the exhaustion status of the claims, and the appropriate procedure if the petition is mixed.

KEY QUOTATIONS

“ “[A]ctual innocence, if proved, serves as a gateway through which a petitioner may pass” if his § 2254 petition would otherwise be barred by the “expiration of the statute of limitations.” ” (at 1)

“Consideration of the actual-innocence exception “requires a holistic judgment” based on all relevant evidence in the record.” (at 1)

“The answer must address the merits of each § 2254 claim and Hepple’s arguments regarding tolling and the potential time-bar.” (at 2)

FACTUAL BACKGROUND

Hepple is serving or has suffered state convictions that he challenges under 28 U.S.C. § 2254, including on double-jeopardy grounds. The federal court questioned whether his petition was timely and directed him to show cause. In response, Hepple appeared to allege actual innocence, and the federal court noted that it did not possess the underlying state-court record needed to evaluate that contention or the petition's other claims.

PROCEDURAL HISTORY

Hepple filed a federal habeas petition alleging, among other claims, double-jeopardy violations. The Court issued a prior show-cause order concerning the petition's timeliness. Hepple's response appeared to assert that he did not commit the charged offenses, potentially invoking the actual-innocence gateway. Because the federal court lacked the underlying state-court record, it ordered the Attorney General to answer the merits and address tolling or other grounds for overcoming the habeas limitation period.

DISPOSITION

other

CASES CITED

- McQuiggin v. Perkins, 569 U.S. 383, 386 (2013)
- House v. Bell, 547 U.S. 518, 539 (2006)
- Fontenot v. Crow, 4 F.4th 982, 1035–52 (10th Cir. 2021)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
MATTHEW STEPHEN HEPPLER, Petitioner, v. No. 23-cv-0864-MV-KRS ATTORNEY
GENERAL FOR THE STATE OF NEW MEXICO, Respondent. ORDER TO ANSWER This
matter is before the Court on Petitioner Matthew Stephen Hepple's 28 U.S.C. § 2254 Habeas
Corpus Petition (Doc. 2) (Petition). Hepple challenges his state convictions based on, inter alia,
double jeopardy violations.

The Court previously directed him to show cause why his § 2254 Petition should not be dismissed
as untimely. See Doc. 5. Hepple filed a Response, which appears to allege he did not commit the
charged offenses. See Doc.

6. "[A]ctual innocence, if proved, serves as a gateway through which a petitioner may pass" if his
§ 2254 petition would otherwise be barred by the "expiration of the statute of limitations."
McQuiggin v. Perkins, 569 U.S. 383, 386 (2013). Consideration of the actual-innocence exception
"requires a holistic judgment" based on all relevant evidence in the record.

House v. Bell, 547 U.S. 518, 539 (2006); see also Fontenot v. Crow, 4 F.4th 982, 1035–52 (10th
Cir. 2021) (considering the entire record to evaluate the actual- innocence claim). Consistent with
these authorities, and because the Court does not have the underlying state record, Respondent
Attorney General for the State of New Mexico (AG) must answer the Petition.

The answer must address the merits of Hepple's § 2254 claims and whether Hepple has
established grounds to toll or overcome the habeas limitation period. IT IS ORDERED that the
Clerk shall mail copies of this Order and Hepple's 28 U.S.C. § 2254 Habeas Corpus Petition (Doc.
2) to Respondent Attorney General for the State of New Mexico (AG) at the following address:
Attn: Federal Habeas Attorney(s) New Mexico Department of Justice (formerly known as the
Attorney General's Office) Criminal Appeals Division 201 Third St. NW, Suite 300, Albuquerque,
NM 87102 IT IS FURTHER ORDERED that the AG must file an answer within 60 days of entry
of this Order.

The answer must address the merits of each § 2254 claim and Hepple's arguments regarding
tolling and the potential time-bar. If the Petition is mixed, such that it contains both exhausted and
unexhausted claims, the AG shall take a position on how to proceed (7.e., stay the proceeding,
dismiss the unexhausted claims, overlook the defect and deny the claim(s) on the merits, etc).

The AG must attach to its answer copies of all pertinent filings from the state trial court, the state court of appeals, and the state supreme court; including memoranda filed by both parties. The AG must also attach to the answer copies of all state post-conviction or appellate proceedings and any transcripts that are needed to resolve the claims. All transcripts must be type- written; the Court will not accept audio recordings in lieu of written transcripts.

IT IS FURTHER ORDERED that Hepple may file an optional reply within 30 days after the AG's response is filed. IT IS SO ORDERED this 19th day of December, 2025. Rains Saaeosga KEVINR.SWEAZEA sts" UNITED STATES MAGISTRATE JUDGE