

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

Roosevelt Erving v. Jared Rardin, Warden

Erving · No. No. 26-CV-0220 (ECT/SGE) · Decided January 26, 2026

SUMMARY

The magistrate judge recommends denying Roosevelt Erving's habeas petition challenging the continued enforceability of a \$443,912.34 restitution obligation imposed in his federal criminal case. The recommendation concludes that 18 U.S.C. § 3613(b) terminates the obligation 20 years after the later of judgment or the person's release from imprisonment, and Erving remains incarcerated; it also notes potential jurisdictional and exhaustion issues.

CASE DETAILS

COURT	United States District Court for the District of Minnesota
WRITING FOR THE COURT	Shannon G. Elkins
JURISDICTION	United States District Court for the District of Minnesota
DECIDED	January 26, 2026
DOCKET	No. 26-CV-0220 (ECT/SGE)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal prisoner filed a habeas petition seeking a declaration that his restitution obligation had expired under 18 U.S.C. § 3613(b). The magistrate judge conducted preliminary review under Rule 4 of the Rules Governing Section 2254 Cases and issued a report and recommendation that the petition be denied and the case dismissed.
STANDARD OF REVIEW	Preliminary review under Rule 4 of the Rules Governing Section 2254 Cases, as applied through Rule 1(b).
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Roosevelt Erving v. Jared Rardin, Warden

TOPICS

- federal habeas corpus
- post-conviction relief
- statutory interpretation
- plain meaning rule
- civil procedure

PRACTICE AREAS

- federal habeas corpus
- restitution
- statutory interpretation
- post-conviction relief

QUESTIONS PRESENTED

1. Whether 18 U.S.C. § 3613(b) terminated Erving's restitution obligation twenty years after entry of the criminal judgment even though he had not yet been released from imprisonment.
2. Whether Erving could challenge the continuing restitution obligation through a federal habeas petition.

HOLDINGS

1. Under the plain text of 18 U.S.C. § 3613(b), restitution liability terminates on the later of twenty years after entry of judgment or twenty years after the person's release from imprisonment. Because Erving remained imprisoned, the later termination date had not occurred, and his restitution obligation remained in effect.
2. The report stated that it was exceedingly doubtful that a claim concerning a restitution obligation could be raised through habeas corpus because such a claim does not challenge the prisoner's custody, but it did not rely on that issue as the basis for the recommendation.

KEY QUOTATIONS

“the liability to pay restitution shall terminate on the date that is the later of 20 years from the entry of judgment or 20 years after the release from imprisonment of the person ordered to pay restitution”

“Section 3613(b) expressly terminates restitution obligations at the later of the two dates referenced.”

FACTUAL BACKGROUND

Erving is serving a lengthy federal prison sentence imposed after he robbed several banks by force or violence. The criminal judgment required him to pay \$443,912.34 in restitution to the banks. Although twenty years had passed since entry of the judgment, Erving remained imprisoned for the offenses when he filed his petition.

PROCEDURAL HISTORY

Erving was convicted in the District of Nebraska and ordered to pay \$443,912.34 in restitution. He filed this habeas petition in the District of Minnesota, asserting that the twentieth anniversary of the criminal judgment terminated his restitution obligation. On preliminary review, the magistrate judge recommended denial of the petition and dismissal of the case. The report and recommendation expressly states that it is not an order or judgment and is not directly appealable.

DISPOSITION

dismissed

CASES CITED

- United States v. Erving, No. 4:05-CR-3002 (RGK/DLP) (D. Neb.)
- Satterfield v. Scibana, 275 F. App'x 808, 810 (10th Cir. 2008)
- Willis v. Ciccone, 506 F.2d 1011, 1015 (8th Cir. 1974)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA Roosevelt Erving, Case No. 26-CV-0220 (ECT/SGE) Petitioner, v. REPORT AND RECOMMENDATION Jared Rardin, Warden, Respondent. Petitioner Roosevelt Erving is serving a very lengthy sentence in federal prison after robbing several banks by force or violence. See *United States v. Erving*, No. 4:05-CR-3002 (RGK/DLP) (D.

Neb.). As part of the judgment in that case, Erving was required to pay a total of \$443,912.34 in restitution to the various banks that he robbed. See *id.* The twentieth anniversary of the criminal judgment passed a few weeks ago. Citing 18 U.S.C. § 3613(b), Erving argues that his restitution obligation has now expired, and he petitions for a writ of habeas corpus, asking that the Court pronounce that he no longer owes that money.

Erving's habeas petition is now before the Court on preliminary review pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.¹ Because Erving is very plainly not entitled to relief, it is recommended that his petition be denied and that this case be dismissed. ¹ Erving's habeas petition is not brought under 28 U.S.C. § 2254, but the Rules Governing Section 2254 Cases may nevertheless be applied to his petition.

See Rule 1(b). Section 3613(b) states, in relevant part, that "[t]he liability to pay restitution shall terminate on the date that is the later of 20 years from the entry of judgment or 20 years after the release from imprisonment of the person ordered to pay restitution" (emphasis added). Erving is now twenty years beyond the date that judgment was entered in his criminal case, but he is not twenty years beyond his release from imprisonment.

Indeed, that twenty-year clock has not yet begun to tick, as Erving today remains in prison as a result of the offenses for which restitution was ordered. Section 3613(b) expressly terminates restitution obligations at the later of the two dates referenced.

Because the later date—"20 years after the release from imprisonment of the person ordered to pay restitution"—has not yet passed, Erving remains subject to his restitution obligation. There are also other reasons Erving's habeas petition would likely need to be denied.

For one thing, it is exceedingly doubtful that claims regarding restitution obligations can be raised through habeas corpus at all, as such a claim in "no way challenges [the prisoner's] custody." *Satterfield v. Scibana*, 275 F. App'x 808, 810 (10th Cir. 2008).

For another thing, Erving does not appear to have presented his claim to the Federal Bureau of Prisons prior to seeking habeas relief.² See *Willis v. Ciccone*, 506 F.2d 1011, 1015 (8th Cir. 1974) (requiring federal prisoners to administratively exhaust claims before seeking habeas relief). But these further justifications for dismissal would be unnecessary. Section 3613(b) does not say what Erving thinks it says.

Under the plain text of that statute, 2 Erving asserts—and provides evidence supporting his assertion—that he exhausted a different claim for relief three years ago, see Petition at 3 [Dkt. 1], but there is no reason to believe that he has ever administratively exhausted any claim for relief referencing § 3613(b). Erving remains responsible for the restitution obligation imposed upon him.

Erving's habeas petition should be denied accordingly. RECOMMENDATION Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT: 1. The petition for a writ of habeas corpus of petitioner Roosevelt Erving [Dkt. 1] be DENIED. 2. This matter be DISMISSED. Dated: January 26, 2026 s/Shannon G. Elkins Shannon G. Elkins United States Magistrate Judge NOTICE Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).