

25-5690
USCA9 No. 24-³⁹⁴
ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

APR - 8 2025

OFFICE OF THE CLERK

ADAM JAY STONE,

Petitioner,

Vs.

C.PFEIFFER/P.HORN,

Respondent.

On Petition for Writ Of Certiorari to the
United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

ADAM JAY STONE
KERN VALLEY STATE PRISON
PO BOX 3030
DELANO, CA 93216

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

In a federal habeas corpus case, an appellant who has missed the one-year filing deadline due to extraordinary circumstances beyond their control may still have a chance for relief through the doctrine of equitable tolling. This legal principle, rooted in fairness, can extend the statute of limitations if specific conditions are met. To successfully invoke equitable tolling, the appellant must demonstrate both extraordinary circumstances beyond their control and reasonable diligence in pursuing their habeas claim.

Should Mr. Stone lose his rightful chance of freedom through Habeas Corpus due to extraordinary circumstances beyond his control, especially since he has provided evidence of both?

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OPINIONS BELOW

The California Appeals Court confirmed the petitioner's conviction on January 28, 2020. Petition for Review was granted on April 29, 2020 pending consideration and disposition of *People v. Frahs*, S252220. The California Supreme Court denied petitioners' motion on August 27, 2020 but petitioner was not notified until June 2022. Petitioner received his transcripts in June 2022 and his discovery August 29, 2022. Petitioner filed his pro se Federal Habeas Corpus within 3 months on September 8, 2022. The United States Court of Appeals for the Ninth Circuit decided the petitioner's case on November 22, 2024. Appendix A.

A timely petition for rehearing was denied by the United States Court of Appeals for Ninth Circuit on January 24, 2025, and a copy of the order denying rehearing appears at Appendix B.

A prisoner should not lose their rightful chance for freedom through habeas corpus due to extraordinary circumstances beyond their control, provided they have shown due diligence in pursuing their writ. The Suspension Clause of the Constitution guarantees the right to habeas corpus,

and extraordinary circumstances, like rebellion or invasion, are the only exceptions. While exhaustion of state remedies is a requirement, and procedural barriers like procedural default can hinder a petition, diligent pursuit of a writ should not be penalized by extraordinary events.

JURISDICTION

B111

Notice of filing of Magistrate Judge's report and recommendation was on November 6, 2023. The district Court Judgement and order was filed January 2, 2024 (transaction entered Jan. 4, 2024). The Ninth Circuit Denied the Certificate of appealability on November 22, 2024. The Ninth Circuit denied Reconsideration January 24, 2025. See Appendix B. Jurisdiction is conferred by 28 U.S.C § 1254(1).

STATEMENT OF CASE

This case highlights the denial of a Habeas petition on procedural grounds, despite the petitioner's diligent efforts to obtain missing transcripts and court files. The petitioner faced challenges due to his former counsel's actions, including losing or destroying critical documents and providing misleading advice. The petitioner argues that reasonable jurists could debate the validity of

the procedural ruling and whether his constitutional rights were denied, referencing *Slack v. McDaniel* (2000).

The petitioner demonstrates diligence in obtaining transcripts by actively trying to acquire them during the four-month period when they were unavailable. Despite the District Court's opinion, the petitioner asserts that he made consistent efforts to retrieve the transcripts and court files, which were lost or destroyed by his former counsel. This claim is central to his argument for equitable tolling, as it shows he was not idle but was hindered by circumstances beyond his control. See Exhibit A pg. 1-3, 5, 7, 9 of memorandum of points and Authorities of COA.

Equitable tolling applies to this case because the petitioner argues that extraordinary circumstances—specifically, the loss or destruction of his transcripts and court files by his former counsel—prevented him from filing his Habeas petition within the required timeframe. During the four-month period when he lacked access to these essential documents, the petitioner was diligently trying to obtain them, demonstrating his effort to pursue his rights despite the obstacles. He further contends that he was misled by his former counsel,

who told him to keep waiting and did not inform him that his case was final. These factors, combined with his diligence, form the basis for his request for equitable tolling to extend the filing deadline.

The petitioner shows that 1) reasonable jurists could debate whether the district court was correct in its procedural ruling and 2) reasonable jurists could debate whether the habeas petition stated a valid claim that a constitutional right was denied. (*Slack c. McDaniel* (2000) 529 U.S. 473, 483 [120 S. Ct. 1597; 146 L. Ed. 2d 542]).

In considering a valid claim that a constitutional right was denied, a jury could debate six points, concerning the 6th and 14th Amendments due process and fair trial rights:

- 1) Appellant should be afforded a mental health diversion hearing as a matter of Federal Due Process;
- 2) Trial Court's recitation of Calcrim No. 3428 precluded jurors from considering PTSD in imperfect self defense.
- 3) Trial Court made unsupported findings to fail in striking the gun enhancement.
- 4) Ineffective Assistance of Counsel: Counsel painted such a negative picture of the

petitioner that no juror would want the petitioner to be found not guilty. Counsel stated that the petitioner just knocks people out for interrupting the petitioner or cuts people for questioning his veteran status, amongst other things. Counsel failed to point out crucial bullet trajectory details to support an imperfect self defense claim.

- 5) Prosecutorial Misconduct: Prosecutor suborned perjury and perjured himself concerning where and how the victim was shot, he allowed and supported witnesses to lie on the stand about where and how the victim was shot. Prosecutor used illegal video and tape recordings. He was not impartial and used improper methods to produce a wrongful conviction.
- 6) Abuse of Discretion/Judicial Bias: The Judge was judiciary biased and abused her discretion with nonsensical rulings in favor of the prosecution. These rulings were highly prejudicial. Petitioner and his counsel were not allowed to speak about the victim's other illegal/criminal actions related to, or not related to, violence however, the prosecutor

had free reign to frame the petitioner as a drug dealer and frame the incident as a drug deal gone bad scenario, despite there being no evidence of drugs at the scene and a witness repeating numerous times to the prosecutor that the petitioner does not sell drugs. The petitioner's veteran soldiers were not allowed to speak about PTSD, nor was an expert witness permitted to speak about how traumatic events alter the brain, but the prosecution however was permitted to show the work of a pathologist who cut open the victim's head and they were permitted to show this highly prejudicial picture under the guise of showing "bullet trajectory." No bullet pathway could be seen. The prosecution was permitted to keep this image up while speaking about the petitioner. This would disgust any juror enough to find the petitioner guilty. The victim's family was even present in the courtroom. The judge silenced eye witness accounts of the victim's robberies. Illegal video and audio recordings were used. The petitioner was not able to cross examine

hearsay statements made by third party people, amongst other violations.

ARGUMENT

The petitioner adopts the statement of procedure from the Appellant's Opening Brief. Petitioner would also like to add that the trial court's judgment was affirmed by the Appellate Court on January 28, 2020, however review was granted by the Supreme Court on April 29, 2020, No. S261098. Further action was deferred pending consideration and disposition of related issues in People v. Frahs, S252220. Counsel Duxbury wrote to Mr. Stone about this and told him "this may take a while." **See letter dated May 4, 2020.** Duxbury also told Mr. Stone that he would send him the transcripts and "the record" when the appeal was over. **See letter dated October 4, 2018.** Unbeknownst to Mr. Stone the Supreme Court had dismissed Mr. Stone's case without waiting on the outcome of People v. Frahs on August 27, 2020, making his case final. Mr. Stone had no knowledge that his case was final. He acted diligently in pursuing the status of People v. Frahs and found that on May 26, 2020 the Court of

Appeal affirmed his trial decision. When Mr. Stone mentioned this to Duxbury, he told Mr. Stone that he had written him in September 2020 and told him that his case was final and that he (Duxbury) sent Mr. Stone all of his records from the case. **See letter dated May 27, 2022.** Mr. Stone did not receive this letter or his case records.

In Duxbury's June 9, 2022 letter he states that petitioner should have relief from any deadlines that may have passed if he shows Duxbury's June 9th letter and inform the court that Mr. Stone did not get the record or notice of remittitur. **See June 9, 2022 letter.** In this letter Duxbury states that Mr. Stone has relief from default of any deadlines, however there are three other reasons why petitioner should not be penalized for filing late.

- 1) A person's lack of knowledge that the State courts had decided the case and the person acted diligently after learning about the decision. This definitely applies to petitioner. See *Ramirez v. Yates* (9th Cir. 2009) 571 F. 3d 993, 998; *Gibbs v. Legrand* (9th Cir. 2014) 767 F. 3d 879, 886 (attorney's failure to notify petitioner that the state supreme court denied appeal, was abandonment and excused

petitioner's failure to file within statutory deadline).

- 2) Lack of access to the case file or to adequate legal materials can be grounds for equitable tolling. *See Lott v. Mueller (9th Cir. 2022) 304 F. 3d 918, 922* (deadline may be tolled during period in which petitioner lacked access to legal files).
- 3) The Federal Habeas timeline may be extended in the interest of justice if the person pursued their case diligently, but extraordinary circumstances beyond the person's control made it impossible to file the Federal Habeas petition on time. *See Holland v. Florida (2010) 560 U.S. 631, 633 [130 S. Ct. 2549; 177 L. Ed. 2d 130]; Nedds v. Calderon (9th Cir. 2012) 678 F. 3d 777, 780; Spitsyn v. Moore (9th Cir. 2003) 345 F. 3d 796, 799.*

The writ of habeas corpus is a fundamental legal tool that allows individuals to challenge the legality of their detention. It ensures that individuals are not held in custody without due process of law.

The Suspension Clause of the Constitution limits the circumstances under which the privilege

of habeas corpus can be suspended, allowing it only in cases of rebellion or invasion when the public safety requires it.

Prisoners must show diligence in pursuing their habeas claims, meaning they must take reasonable steps to exhaust state court remedies and address any procedural issues.

Extraordinary circumstances beyond a prisoner's control, like natural disasters, legal delays, or the unavailability of crucial evidence, should not automatically bar their ability to seek habeas relief. These circumstances can hinder a prisoner's ability to meet strict deadlines or comply with procedural rules.

Procedural barriers like exhaustion of state remedies, statutes of limitations, and procedural default can be significant hurdles in a habeas case. However, they are not absolute and can be overcome if a prisoner can demonstrate that extraordinary circumstances prevented them from meeting the requirements.

Courts will likely balance the need to maintain the integrity of the legal process with the fundamental right to freedom. In situations where a prisoner has shown due diligence but is hindered by extraordinary circumstances, courts may find

ways to allow their petition to proceed or to grant them relief.

REASONS FOR GRANTING THE WRIT

AEDPA's statute of limitations on habeas corpus for federal prisoners should be recognized as a violation of the Suspension Clause.

Alternatively, should the Supreme Court refuse to find that the writ has been suspended, federal prisoners should still have access to the residual federal habeas corpus right that is protected by the Constitution even after the statute of limitations has expired.

The question of whether a prisoner should lose their chance at freedom due to procedural issues in a federal habeas corpus petition, despite demonstrating extraordinary circumstances beyond their control and diligence, raises complex legal and ethical considerations.

Arguments for Allowing the Petition:

- **Equitable Tolling:** The doctrine of equitable tolling allows a court to extend the statute of limitations for filing a habeas petition when a petitioner demonstrates diligence and extraordinary circumstances beyond their

control that prevented them from filing on time.

- Fundamental Miscarriage of Justice: Some courts may allow a procedurally defaulted claim to be reviewed if the petitioner can show that a fundamental miscarriage of justice, such as the conviction of an innocent person, would result if the claim is not considered.
- Right to Habeas Corpus: The writ of habeas corpus is a fundamental right enshrined in the Constitution, meant to safeguard against unlawful detention. Denying review based on procedural technicalities, despite a meritorious claim, could be seen as undermining this right.

Equitable Tolling:

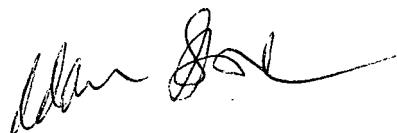
- In certain exceptional circumstances, courts may invoke equitable tolling to extend the AEDPA's statute of limitations.
- Equitable tolling is an extraordinary remedy applied sparingly and only in cases where a petitioner has demonstrated "extraordinary circumstances" and "due diligence".
- Extraordinary Circumstances: These are events beyond the prisoner's control that prevented them from filing on time, such as

attorney abandonment or significant external impediments.

- Due Diligence: The prisoner must demonstrate they were diligent in pursuing their legal rights despite the extraordinary circumstances.

CONCLUSION

This Court should grant certiorari.



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