

*For The Eighth Circuit*  
Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Room 24.329  
St. Louis, Missouri 63102

Susan E. Bindler  
Clerk of Court

VOICE (314) 244-2400  
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October 03, 2025

James Michael Soderbeck  
MINNESOTA DEPARTMENT OF CORRECTIONS  
219661  
1101 Linden Lane  
Faribault, MN 55021-6400

RE: 25-2046 James Soderbeck v. Warden Tracy Beltz

Dear James:

Enclosed is a copy of the dispositive order in the referenced appeal. Please note that FRAP 40 of the Federal Rules of Appellate Procedure requires any petition for rehearing to be filed within 14 days after entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. This court strictly enforces the 14-day period. Except as provided by Rule 25(a)(2)(iii) of the Federal Rules of Appellate Procedure, **no grace period for mailing is granted** for pro-se-filed petitions. A petition for rehearing or a motion for an extension of time must be filed with the Clerk's office within the 14-day period.

Susan E. Bindler  
Clerk of Court

HAG

Enclosure(s)

cc: Clerk, U.S. District Court, District of Minnesota  
Peter R. Marker  
Thomas Rolf Ragatz  
Edwin William Stockmeyer III

District Court/Agency Case Number(s): 0:24-cv-04659-PJS

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No: 25-2046

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James Michael Soderbeck

Petitioner - Appellant

v.

Tracy Beltz, Warden

Respondent - Appellee

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Appeal from U.S. District Court for the District of Minnesota  
(0:24-cv-04659-PJS)

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**JUDGMENT**

Before BENTON, SHEPHERD, and GRASZ, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

October 03, 2025

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Susan E. Bindler

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**UNITED STATES DISTRICT COURT**  
**District of Minnesota**

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**JUDGMENT IN A CIVIL CASE**

James Michael Soderbeck

Plaintiff(s),

v.

Case Number: 24-cv-4659 PJS/DTS

Tracey Beltz

Defendant(s)

- 
- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

1. Petitioner's objection [ECF No. 9] is OVERRULED and the Report and Recommendation [ECF No. 8] is ADOPTED.
2. The petition for writ of habeas corpus [ECF No. 1] is DENIED as untimely and DISMISSED WITHOUT PREJUDICE.
3. Petitioner's application to proceed in forma pauperis [ECF No. 2] is DENIED AS MOOT.
4. No certificate of appealability shall issue.

Date: 5/5/2025

\_\_\_\_\_  
KATE M. FOGARTY, CLERK



## Prisoner Appeals

The Court has four different guides concerning prisoner litigation, one for each of the following: civil rights (Section 1983/Bivens); Section 2254 habeas petition for persons in state custody; Section 2255 motion to vacate, set aside or correct sentence for persons in federal custody; and Section 2241 habeas petition for persons in federal custody and state pre-trial detainees. For more information on your specific type of case, please consult the applicable guide. You may obtain a copy of the guides by contacting the Clerk's Office using the contact information provided at the end of this document.

### When can I file an appeal in a prisoner case?

Generally, you may file an appeal after you have obtained the final judgment in your case. Federal Rule of Appellate Procedure 4(a) governs when a notice of appeal in a civil case must be filed. Notices of appeal must be filed with the district court within 30 days of when the judgment or order appealed from is entered. See Rule 4(a)(1)(A), Rules of Appellate Procedure. When the United States or its officer or agency is a party, such as in a 2255 motion, the notice of appeal may be filed within 60 days after the judgment or order appealed from is entered. See Rule 4(a)(1)(B), Rules of Appellate Procedure.

There is an exception to this rule, however, if your case concerns a habeas corpus petition under 28 U.S.C. §§ 2254 or 2255. To file an appeal in a habeas corpus action, you must first receive: (1) a final order that is adverse to you; and (2) a certificate of appealability from the district judge in the final order of your case. See Rule 11, Rules Governing § 2254 Cases and Rule 11, Rules Governing § 2255 Proceedings. If the district court denies the certificate, you must seek a certificate of appealability from the Court of Appeals under Federal Rule of Appellate Procedure 22 when filing your appeal.

### What do I need to do to file an appeal?

1. File a Notice of Appeal with the district court; and
2. Pay the \$605.00 filing fee **OR** request to waive the filing fee by submitting a completed "Prisoner Affidavit Accompanying Motion for Permission To Appeal" In Forma Pauperis."

**§ 2241 and 2254 Cases:** If you were granted IFP status by the district court in your habeas case, you do not need to submit another IFP application with your notice of appeal.



**§ 2255 Cases:** If you were represented by appointed counsel at the end of your criminal case, you do not need to submit an IFP application on appeal because the filing fee for your appeal will automatically be waived, unless the judge specifically rules otherwise.

**Prisoner Civil Rights Cases:** You must submit another IFP application with your notice of appeal because the Court must determine the initial partial filing fee and subsequent installment payments required under the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

You may contact the Clerk's Office to obtain a Notice of Appeal form. For information on filing a notice of appeal, review Rules 3 and 4 of the Federal Rules of Appellate Procedure.

If the district court denies your IFP application on appeal, you may appeal this determination to the Eighth Circuit Court of Appeals by filing a Motion and Affidavit for Permission to Appeal in Forma Pauperis. You may obtain a copy of this form by contacting the Clerk of Court for the Eighth Circuit Court of Appeals at the following address and phone number:

Eighth Circuit Court of Appeals Clerk's Office  
Thomas F. Eagleton Courthouse  
Room 24.329  
111 South 10<sup>th</sup> Street  
St. Louis, MO 63102

Phone: (314) 244-2400

**How do I contact the District Court Clerk's Office?**

United States District Court, District of Minnesota Clerk's Office  
U.S. Courthouse  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55415

Phone: (612) 664-5000

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

**NOTICE OF APPEAL**

Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties  
(provide the names of all parties who are filing an appeal):

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the (indicate whether the  
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the  
District of Minnesota that was entered on (date judgment or order was  
entered) that:

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Signed this                      day of

Signature of Party \_\_\_\_\_

Mailing Address

Telephone Number

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

**CERTIFICATE OF  
SERVICE FOR  
SERVICE BY MAIL**

vs.

Case No.

Defendant(s).

(Enter the full name(s) of ALL plaintiffs  
and defendants in this lawsuit. Please  
attach additional pages, if necessary.)

I hereby certify that on \_\_\_\_\_ (mm/dd/yyyy), I caused the following  
documents: *[List the documents you are going to file and serve.]*

*[Check the box, below, that applies to how you served the above documents.]*

- ☐ to be filed electronically with the Clerk of Court through ECF and/or
- ☐ that I caused a copy of the foregoing documents (and the notice of electronic  
filing, if filed electronically) to be mailed by first class mail, postage paid, to the  
following: *[List names and addresses of those served by U.S. Mail.]*



Date:

s/

---

Signature of filing party

---

Filer's Typed Name



## UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Warren E. Burger Federal  
Building and U.S. Courthouse  
316 North Robert Street  
Room 100  
St. Paul, MN 55101

Diana E. Murphy  
U.S. Courthouse  
300 South Fourth Street  
Room 202  
Minneapolis, MN 55415

Gerald W. Heaney Federal  
Building and U.S. Courthouse  
and Customhouse  
515 West First Street  
Duluth, MN 55802

Edward J. Devitt U.S.  
Courthouse and Federal  
Building  
118 South Mill Street  
Fergus Falls, MN 56537

### CIVIL NOTICE

**The appeal filing fee is \$605.00. If you are indigent, you can apply for leave to proceed in forma pauperis, ("IFP").**

The purpose of this notice is to summarize the time limits for filing with the District Court Clerk's Office a Notice of Appeal to the Eighth Circuit Court of Appeals or the Federal Circuit Court of Appeals (when applicable) from a final decision of the District Court in a civil case.

***This is a summary only. For specific information on the time limits for filing a Notice of Appeal, review the applicable federal civil and appellate procedure rules and statutes.***

Rule 4(a) of the Federal Rules of Appellate Procedure (Fed. R. App. P.) requires that a Notice of Appeal be filed within:

1. Thirty days (60 days if the United States is a party) after the date of "entry of the judgment or order appealed from;" or
2. Thirty days (60 days if the United States is a party) after the date of entry of an order denying a timely motion for a new trial under Fed. R. Civ. P. 59; or
3. Thirty days (60 days if the United States is a party) after the date of entry of an order granting or denying a timely motion for judgment under Fed. R. Civ. P. 50(b), to amend or make additional findings of fact under Fed. R. Civ. P. 52(b), and/or to alter or amend the judgment under Fed. R. Civ. P. 59; or
4. Fourteen days after the date on which a previously timely Notice of Appeal was filed.

If a Notice of Appeal is not timely filed, a party in a civil case can move the District Court pursuant to Fed. R. App. P. 4(a)(5) to extend the time for filing a Notice of Appeal. This motion must be filed no later than 30 days after the period for filing a Notice of Appeal expires. If the motion is filed after the period for filing a Notice of Appeal expires, the party bringing the motion must give the opposing parties notice of it. The District Court may grant the motion, but only if excusable neglect or good cause is shown for failing to file a timely Notice of Appeal.

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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JAMES MICHAEL SODERBECK,

Case No. 24-CV-4659 (PJS/DTS)

Petitioner,

v.

ORDER

TRACEY BELTZ, Warden,

Respondent.

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Petitioner James Michael Soderbeck brought this pro se habeas petition alleging various infirmities with his state-court conviction for third-degree criminal sexual conduct. The matter is before the Court on Soderbeck's objection to the March 4, 2025, Report and Recommendation ("R&R") of Magistrate Judge David T. Schultz. Judge Schultz recommends denying Soderbeck's petition as untimely. After conducting a de novo review, *see* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b), the Court overrules the objection and adopts the R&R.

In his objection, Soderbeck claims that the one-year statute of limitations for his habeas petition was tolled by a July 27, 2021, habeas petition that he filed in Rice County district court. As the R&R notes, however, no court records exist as to Soderbeck's claimed filing, which Soderbeck himself seems to acknowledge in his objection. ECF No. 9 at 2 (asserting that the judge made a decision in that case, but he

has been trying “to get to the bottom of where the Rice county Judge’s Decision went to”). Instead, Soderbeck attached four exhibits to show the statute of limitations was tolled: (1) a receipt for a postage purchase on July 28, 2021 for mail to the Rice County courthouse; (2) an undated “Notice of Motion”; (3) a habeas petition signed on January 2, 2023, and marked received by a Minnesota court on January 18, 2023; and (4) an unaddressed letter signed June 23, 2022, in which Soderbeck asks about a July 27, 2021, petition.

Obviously, the undated “Notice” and the habeas petition filed after the statute of limitations had already run do not help Soderbeck. That said, the postage purchase receipt and letter (if authentic) do suggest Soderbeck at least attempted to file an application for state habeas review around July 27, 2021. Unfortunately for Soderbeck, however, an application is not deemed “filed” for purposes of 28 U.S.C. § 2244(d)(2) unless and until “it is delivered to, and accepted by, the appropriate court officer for placement into the official record.” *Artuz v. Bennett*, 531 U.S. 4, 8 (2000) (citations omitted). The record contains no evidence that Soderbeck’s habeas petition was actually delivered to, and accepted by, the Rice County clerk of court. Thus, this Court cannot conclude that Soderbeck “properly filed” an application that would toll the statute of limitations. His habeas petition is therefore denied as untimely.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Petitioner's objection [ECF No. 9] is OVERRULED and the Report and Recommendation [ECF No. 8] is ADOPTED.
2. The petition for writ of habeas corpus [ECF No. 1] is DENIED as untimely and DISMISSED WITHOUT PREJUDICE.
3. Petitioner's application to proceed in forma pauperis [ECF No. 2] is DENIED AS MOOT.
4. No certificate of appealability shall issue.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 1, 2025

s/Patrick J. Schiltz  
Patrick J. Schiltz, Chief Judge  
United States District Court



**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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James Michael Soderbeck,

Case No. 24-cv-4659 (PJS/DTS)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

Tracey Beltz,

Respondent.

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This case is before the Court on Petitioner James Michael Soderbeck's Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254, Docket No. 1 ("Petition"); his Application to Proceed Without Prepaying Fees or Costs, Docket No. 2 ("IFP Application"); and his letter received on January 23, 2025, Docket No. 7 ("Response"). For the reasons below, the Court recommends denying the Petition, dismissing this action, and denying the IFP Application as moot.

**BACKGROUND**

The Petition challenges Soderbeck's earlier state-court conviction in *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct.). In a previous Order, the Court summarized the state-court procedural history as follows:

In April 2016, authorities in Minnesota's Ramsey County charged Soderbeck with one count of first-degree criminal sexual conduct (in violation of Minn. Stat. § 609.342, subd. 1(e)(i)) and one count of third-degree criminal sexual conduct (in violation of Minn. Stat. § 609.344, subd. 1(c)). In July 2016, Soderbeck (represented by counsel) submitted a petition to file a guilty plea under which he agreed to plead guilty to the third-degree count. The trial court later sentenced him to 180 months' imprisonment.

Soderbeck filed a direct appeal, but the Minnesota Court of Appeals affirmed his conviction and the Minnesota Supreme Court denied his petition for further review. He has made some attempts to seek postconviction relief, but these have been unsuccessful. The last of these efforts seems to have ended in April 2021, when the Minnesota Supreme Court denied further review of a decision affirming the denial of his second postconviction-relief petition.

Order 1–2, Docket No. 3 (“January 2025 Order”) (citations and footnote omitted). Given this history, the Court directed Soderbeck “to submit a filing . . . explaining why the Court should not recommend denying the Petition for failure to comply with the relevant statute of limitations.” *Id.* at 4. The Response is Soderbeck’s attempt to address the Order.

As the January 2025 Order explained, the applicable statute of limitations is 28 U.S.C. § 2244(d)(1)(A), which sets a one-year deadline for filing a § 2254 petition. That period begins on “the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review[.]” Under § 2244(d)(2), on the other hand, “[t]he time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under [§ 2244(d)].”

The January 2025 Order reviewed Soderbeck’s criminal-case history and determined that his § 2244(d)(1) limitations period began on February 26, 2018. See Jan. 2025 Order 4.<sup>1</sup> The Response does not dispute this calculation, but argues that

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<sup>1</sup> As the Court explained:

Soderbeck took his direct appeal to the Minnesota Supreme Court, but did not then petition the U.S. Supreme Court for a writ of certiorari. In such situations, the limitations period begins once the prisoner’s time for seeking certiorari ends. When the Minnesota Supreme Court denied Soderbeck’s petition for further review on November 28, 2017, the 90-day



Soderbeck's actions in state court qualify him for tolling under § 2244(d)(2) and make the Petition timely. See Resp. 1–2. The Response is somewhat unclear and suggests that Soderbeck attempted to challenge his conviction in at least two counties. See *id.* As explained below, however, Soderbeck's efforts do not make the Petition timely.

### LIMITATIONS ANALYSIS

#### I. Filings in March 2018 and April 2018

As noted, Soderbeck's § 2244(d)(1) limitations period began on February 26, 2018. On March 12, 2018, he filed a "Notice of Motion" and "Motion to Withdraw All Admittance of Guilt and Plea Deal" in his criminal case. Not. of Mot. 1, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. Mar. 12, 2018) (capitalization amended). This was plainly a collateral challenge to his conviction. See *generally id.* The trial court, treating the motion as a "petition for post-conviction relief," denied it four days later, explaining that Soderbeck had failed to provide proper proof of service as required by Minnesota law. See Order Denying Post-Conviction Relief 1, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. Mar. 16, 2018); cf. Minn. Stat. § 590.02, subd. 3 ("When a petition is filed pursuant to [§] 590.01 [Minnesota's postconviction-relief statute] it shall be signed by the petitioner . . . with proof of service on the [state's] attorney general and county attorney."). Soderbeck filed a similar motion on April 9, 2018, which the trial court denied for the same reason on April 16, 2018. See Not. of Mot. 1, *State v. Soderbeck*, No. 62-

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deadline for petitioning the U.S. Supreme Court for a writ of certiorari began. Under § 2244(d)(1)(A), the one-year limitations period thus began on February 26, 2018 . . . .

Jan. 2025 Order 3–4 (citations omitted).

CR-16-3123 (Minn. Dist. Ct. Apr. 9, 2018); Order Denying Post-Conviction Relief 1, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. Apr. 16, 2018).

These filings did not toll Soderbeck's limitations period. Under § 2244(d)(2), an "application for State post-conviction or other collateral review" tolls the § 2244(d)(1) limitations period only if it is "properly filed." As the U.S. Supreme Court held in *Artuz v. Bennett*, an application is "properly filed" when its "delivery and acceptance are in compliance with the applicable laws and rules governing filings." 531 U.S. 4, 8–9 (2000); see also *Nelson v. Norris*, 618 F.3d 886, 892 (8th Cir. 2010) (discussing "properly filed" requirement). Minnesota's relevant proof-of-service rule, Minn. Stat. § 590.02, subd. 3, falls within those governing laws and rules. See, e.g., *Brown v. Jones*, No. 18-CV-0359 (LEK), 2019 WL 2569649, at \*4 (N.D.N.Y. June 21, 2019) (finding that procedural violations, including failure to follow service rules, rendered a postconviction filing not "properly filed"); *Colombero v. Davey*, No. 15-CV-1847 (DAD/MJS), 2016 WL 8731074, at \*3 (E.D. Cal. June 17, 2016) (same). Because Soderbeck failed to comply with this rule, his March and April 2018 filings did not toll the deadline for filing a § 2254 petition.

## **II. Filings in May 2018, December 2018, and February 2020**

By May 1, 2018, then, 63 days of Soderbeck's § 2244(d)(1) limitations period had passed. That day, he filed another motion similar to his earlier ones, this time with documentation showing he had served the required state and county officials. See Not. of Mot. 1–2, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. May 1, 2018). Unlike before, the Ramsey County Attorney responded substantively. See Ltr. 1, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. May 8, 2018).

The state-court docket does not clearly indicate what happened next, but it appears that the trial court took no action on Soderbeck's May 2018 motion. Soderbeck

filed another motion in December 2018. See Register of Actions, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct.) (“State-Court Docket”); Not. of Mot. 1, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. Dec. 4, 2018). The trial court again treated the motion as a postconviction-relief petition and denied it on January 9, 2019. See Order 1, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. Jan. 9, 2019). The Minnesota Court of Appeals affirmed on October 21, 2019, and Soderbeck did not seek further review in the Minnesota Supreme Court. See *Soderbeck v. State*, No. A19-0238, 2019 WL 5304187, at \*1 (Minn. Ct. App. Oct. 21, 2019); Docket, *Soderbeck v. State*, No. A19-0238 (Minn. Ct. App.). The Court of Appeals entered judgment on January 14, 2020. See J. 1, *Soderbeck v. State*, No. A19-0238 (Jan. 14, 2020).

Two questions arise regarding the limitations period, but the Court need not resolve them. First, did the period toll between May 1, 2018, and December 4, 2018, while Soderbeck’s May 2018 motion remained unresolved? Later events make the answer irrelevant, so the Court assumes, in his favor, that the period tolled. Second, when did tolling end? Under Minnesota procedural rules, a petitioner has 30 days to seek discretionary review in the Minnesota Supreme Court, making Soderbeck’s deadline November 20, 2019. But the Court of Appeals entered judgment on January 14, 2020. So was Soderbeck’s petition here no longer “pending” on November 21, 2019, or on January 15, 2020? *Cf. Payne v. Kemna*, 441 F.3d 570, 572 (8th Cir. 2006) (stating that determining pendency requires examining particular state’s procedure (citing *Nyland v. Moore*, 216 F.3d 1264, 1267 (11th Cir. 2000))). Here again, though, later events make the decision here irrelevant, so the Court assumes that the limitations period resumed on the later date, January 15, 2020.

As noted above, when Soderbeck filed his May 2018 motion, 63 days had passed. Under the assumptions discussed above, the clock restarted on January 15, 2020, and 302 days remained, setting a new deadline of November 12, 2020.

On February 20, 2020—well before that deadline—Soderbeck filed another motion challenging his conviction. See Not. of Mot. 1–2, *State v. Soderbeck*, No. 62-CR-16-3123 (Minn. Dist. Ct. Feb. 20, 2020). This triggered another round of state collateral review, again tolling the limitations period. The trial court denied the motion on April 2, 2020, and the Minnesota Court of Appeals upheld that denial on January 19, 2021. See *State v. Soderbeck*, No. A20-0632, 2021 WL 161980, at \*1 (Minn. Ct. App. Jan. 19, 2021). The Minnesota Supreme Court denied review on March 30, 2021, and the Court of Appeals entered judgment on April 12, 2021. See *id.*; Docket, *Soderbeck v. State*, No. A20-0632 (Minn. Ct. App.).

A related pendency issue arises: does the Minnesota appeal process end when the Supreme Court denies review, or when the Court of Appeals enters judgment? The Court need not resolve this issue to decide this case and will assume Soderbeck's limitations period restarted when judgment was entered on April 12, 2021. By then, 99 days had passed, leaving 266 days. Adding 266 days to April 12, 2021, yields a new deadline of January 3, 2022. The State-Court Docket shows no relevant filings during this period.<sup>2</sup>

### **III. Filings in January 2023 and May 2024**

Here, Soderbeck's Response becomes relevant. As noted, the Response claims he sought additional state-court remedies starting in mid-2021. But Minnesota's online

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<sup>2</sup> Additional filings appear in No. 62-CR-16-3123, but none were made until October 10, 2022. See State-Court Docket.

court records show no such filings during that period. On the other hand, the Response references filings in Rice County (the site of MCF-Faribault, where Soderbeck has been incarcerated), and the Court has identified two habeas petitions filed there in January 2023 and May 2024. See *Register of Action, Soderbeck v. Beltz*, No. 66-CV-23-165 (Minn. Dist. Ct.) (commencing Jan. 18, 2023); *Register of Action, Soderbeck v. Beltz*, No. 66-CV-24-1176 (Minn. Dist. Ct.) (commencing May 24, 2024).

For two reasons, though, these filings do not make the Petition timely. First, both were filed long after the § 2244(d)(1) period expired on January 3, 2022. It is well established that once this period ends, later state-court filings do not restart it. See, e.g., *Jackson v. Ault*, 452 F.3d 734, 735–36 (8th Cir. 2006) (“The one year AEDPA limit for federal habeas filing cannot be tolled after it has expired.”) (citing *Curtiss v. Mt. Pleasant Corr. Facility*, 338 F.3d 851, 853 (8th Cir. 2003)); *Hodges v. Bolin*, No. 21-CV-0165 (MJD/ECW), 2022 WL 707593, at \*6 (D. Minn. Jan. 31, 2022) (citing cases, including *Jackson*), *report and recommendation adopted*, 2022 WL 706774 (D. Minn. Mar. 9, 2022).

Second, even if Soderbeck had filed these petitions before his deadline, they would not qualify as “properly filed application[s] for State post-conviction or other collateral review.” Minnesota law does not permit habeas-corpus petitions to challenge a conviction’s validity. Instead, Minn. Stat. § 590.01, subd. 2, requires those seeking collateral review of convictions to file postconviction-relief petitions. Because Soderbeck’s habeas petitions were the wrong type of filing and submitted in the wrong court, they were not “properly filed.” Cf. *Artuz*, 531 U.S. at 8 (noting that “applicable laws and rules governing filings” include “the court and office in which it must be lodged”). As a result, they would not have tolled the limitations period even if timely.

### CONCLUSION

In sum, while some of Soderbeck's filings briefly tolled the federal limitations period, his § 2244(d)(1) deadline expired on January 3, 2022. Because the Petition was filed well after that date, it is untimely.<sup>3</sup> The Court therefore recommends denying the Petition and dismissing this action. Given this recommendation, the Court also recommends denying the IFP Application as moot.

A § 2254 petitioner cannot appeal an adverse ruling without a certificate of appealability ("COA"). See 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22(b)(1). A district court may issue a COA only if a petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a petition is dismissed on procedural grounds, a COA is warranted only if "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Here, the Court finds it unlikely that any court, including the U.S. Court of Appeals for the Eighth Circuit, would reach a different conclusion about this action. Accordingly, the Court recommends denying a COA.

### RECOMMENDATION

For the reasons set forth above, the Court **RECOMMENDS**:

1. Petitioner James Michael Soderbeck's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, Docket No. 1, be **DENIED**.
2. Soderbeck's Application to Proceed in District Court Without Prepaying Fees or Costs, Docket No. 2, be **DENIED** as moot.

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<sup>3</sup> A § 2254 petitioner may, in some cases, avoid the § 2244(d)(1) limitations period through equitable tolling. But neither the Petition nor the Response raises any equitable-tolling argument.

3. This action be **DISMISSED**.
4. No certificate of appealability be issued.

Dated: March 4, 2025

s/ David T. Schultz  
\_\_\_\_\_  
DAVID T. SCHULTZ  
U.S. 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).

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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JAMES MICHAEL SODERBECK,

Case No. 24-CV-4659 (PJS/DTS)

Petitioner,

v.

ORDER

TRACY BELTZ, Warden,

Respondent.

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This matter is before the Court on the motion of petitioner James Soderbeck for leave to appeal *in forma pauperis* ("IFP"). A litigant who seeks to be excused from paying the filing fee for an appeal in a federal case may apply for IFP status. 28 U.S.C. § 1915(a)(1); Fed. R. App. P. 24(a). To qualify for IFP status, a litigant must demonstrate that he cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1). However, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). Good faith is demonstrated when a litigant seeks appellate review of any non-frivolous issue. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

Based on the disclosures in Soderbeck's IFP application, the Court concludes that he is financially eligible for IFP status. Further, although the Court denied Soderbeck a certificate of appealability, *see* ECF No. 10, the Court will not deem his appeal to be frivolous. Soderbeck's motion to appeal IFP is therefore granted.

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## ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,  
IT IS HEREBY ORDERED THAT petitioner's motion for leave to appeal *in forma*  
*pauperis* [ECF No. 15] is GRANTED.

Dated: June 17, 2025

/s/ Patrick J. Schiltz  
Patrick J. Schiltz, Chief Judge  
United States District Court

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**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

No: 25-2046

James Michael Soderbeck

Appellant

v.

Tracy Beltz, Warden

Appellee

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Appeal from U.S. District Court for the District of Minnesota  
(0:24-cv-04659-PJS)

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**ORDER**

The petition for rehearing by the panel is denied.

November 13, 2025

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Susan E. Bindler

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**Additional material  
from this filing is  
available in the  
Clerk's Office.**