

560715 10/08/25
MOTION OR APPLICATION
DECLARATION I PET ROBINSON

DECLARE TO BE TRUE IS PERJURY

PET MARTIN ROBINSON REQUESTS

EXTENSION FROM 8/21/25 6:00 PM

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DUE TO WARDEN FREDRICK

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PLANS DENYING ME ACCESS TO COMPUTER

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SEE KITES/ICR ELECTRONIC COMMISSION 3:23-1611

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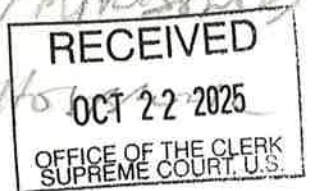
MARTIN ROBINSON 756785

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PROF SERVICE

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PET MARTIN ROBINSON

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RESPONDENTS WARDENS FREDRICK;
SWARTZ; HENDERSON; DIRECTOR A.
CHAMBERS SMITH; GOV. DEWINE

PET WDC

6 CIR 25-3066; NDOH 3:23-CV89

REQUEST EXTENSION 90
DAYS FROM 08/21/2025

STARTED PET ON OR BEFORE 7/25/25
NOT SURE IF BEEN DELETED...

PLEASE APPOINT COUNSEL

DAC 120-1-03 ...

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No. 25-3066

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Jul 14, 2025

KELLY L. STEPHENS, Clerk

MARTIN ROBINSON,

Petitioner-Appellant,

v.

MICHAEL K. SWARTZ, Warden,

Respondent-Appellee.

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ORDER

Before: NALBANDIAN, Circuit Judge.

Martin Robinson, an Ohio prisoner proceeding pro se, appeals a district court judgment dismissing his petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. The court construes the notice of appeal as a request for a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b)(2). Robinson moves to proceed in forma pauperis.

In 2019, a jury found Robinson guilty of attempted aggravated murder, inducing panic, six counts of attempted murder, and eight counts of felonious assault, as well as the firearm specifications attached to the attempted-murder and assault convictions. He was sentenced to serve an aggregate prison term of 55 years. The Ohio Court of Appeals affirmed Robinson's convictions on September 21, 2020. *State v. Robinson*, No. 19CA011495, 2020 WL 5626294 (Ohio Ct. App. Sept. 21, 2020). The state appellate court denied Robinson's motions for reconsideration and en banc rehearing as untimely on November 23, 2020. Robinson did not appeal to the Ohio Supreme Court.

Robinson pursued numerous post-conviction remedies. On September 8, 2020, he filed a petition for post-conviction relief. The trial court dismissed the petition, and the Ohio Court of Appeals dismissed Robinson's appeal on January 21, 2021. He did not appeal to the Ohio Supreme Court. Robinson applied to reopen his direct appeal under Ohio Rule of Appellate

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Procedure 26(B) on December 4, 2020. The Ohio Court of Appeals denied the application on January 29, 2021. Robinson did not appeal.

In December 2020, Robinson filed two notices of appeal with the Ohio Court of Appeals, one on December 10 and one on December 18, apparently directed at his sentence. The state appellate court dismissed both appeals for lack of jurisdiction. The Ohio Supreme Court declined to accept jurisdiction over the appeals on July 20, 2021, and August 3, 2021.

Robinson filed two motions for a new trial. The first, filed on January 12, 2021, was denied by the trial court as untimely, and Robinson's appeal was dismissed by the state appellate court for lack of jurisdiction on May 3, 2021. The second, filed on April 13, 2021, was also denied by the trial court as untimely, and Robinson's appeal was dismissed by the state appellate court for failure to comply with a court order on October 5, 2021. Robinson did not appeal either state appellate court decision to the Ohio Supreme Court.

On December 18, 2020, Robinson filed a habeas petition in the Ohio Court of Appeals for Lorain County. The Ohio Court of Appeals dismissed the petition on March 8, 2021, for failure to comply with filing requirements, and the Ohio Supreme Court affirmed on November 3, 2021. The United States Supreme Court denied certiorari on June 6, 2022. On June 11, 2021, Robinson filed a habeas petition in the Madison County Court of Common Pleas. The trial court dismissed the petition for failure to comply with filing requirements and to state a claim for relief, the Ohio Court of Appeals affirmed on February 28, 2022, and the Ohio Supreme Court declined to accept jurisdiction over the appeal on June 7, 2022.

On September 22, 2022, the Ohio Court of Appeals dismissed Robinson's "renewed notice of appeal" as untimely. The Ohio Supreme Court denied Robinson's motion for a stay on January 17, 2023.

Robinson filed this § 2254 habeas corpus petition on January 17, 2023. The petition was incomplete, however, omitting 13 of 16 pages, including the claims for relief and the date of mailing. A magistrate judge granted the State's motion for a more definite statement and ordered Robinson to file an amended petition. After Robinson failed to file an amended petition, the district

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court ordered him to do so and explained failure to would result in dismissal with prejudice for failure to prosecute. Robinson complied and filed an amended habeas petition that raised 39 claims. The State moved to dismiss Robinson's petition, arguing that his claims were untimely and procedurally defaulted and that some were unexhausted. The magistrate judge recommended dismissing Robinson's petition as barred by the one-year statute of limitations set forth in 28 U.S.C. § 2244(d) and, alternatively, as unexhausted in its entirety or procedurally defaulted. Over Robinson's objections, the district court adopted the magistrate judge's report and recommendation; dismissed Robinson's habeas corpus petition as time-barred and, alternatively, procedurally defaulted; and denied a certificate of appealability.

A certificate of appealability may issue only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a habeas corpus petition is denied on procedural grounds, the petitioner must show "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that 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).

A federal habeas corpus petition is subject to a one-year statute of limitations that begins to run from the latest of four possible circumstances. 28 U.S.C. § 2244(d)(1). Most of the time, the statute of limitations begins to run from "the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review." 28 U.S.C. § 2244(d)(1)(A). The limitations period is tolled for "[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." 28 U.S.C. § 2244(d)(2).

Reasonable jurists would not debate the district court's determination that Robinson's claims are time-barred. Robinson's convictions became final on Thursday, January 7, 2021, after expiration of the 45-day period during which he could have filed a timely appeal to the Ohio Supreme Court from the November 23, 2020, decisions of the Ohio Court of Appeals denying his motions for reconsideration and en banc rehearing of the affirmance of his convictions, even assuming without deciding that those untimely motions extended the appeal period on direct

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review. *See* Ohio Sup. Ct. Prac. R. 7.01(A)(1)(a)(i); *Gonzalez v. Thaler*, 565 U.S. 134, 150 (2012); *but see* Ohio Sup. Ct. Prac. R. 7.01(A)(5), (6). Because “the day of the event that triggers the period” is not counted, the one-year limitations period began to run on Friday, January 8, 2021. *See* Fed. R. Civ. P. 6(a)(1)(A).

But at that point, the limitations period was tolled due to the pendency of Robinson’s post-conviction proceedings, specifically, his petition for post-conviction relief, application to reopen his direct appeal, and December 2020 notices of appeal. *See* 28 U.S.C. § 2244(d)(2). Those proceedings ended no later than August 3, 2021, when the Ohio Supreme Court declined to accept jurisdiction over Robinson’s appeal from the state appellate court’s dismissal of his December 18, 2020, notice of appeal. The limitations period began to run on August 4, 2021, and expired one year later, on August 4, 2022. *See Moss v. Miniard*, 62 F.4th 1002, 1010 (6th Cir. 2023). Although Robinson pursued additional post-conviction proceedings—motions for a new trial, state habeas corpus petitions, and a renewed appeal with the Ohio Court of Appeals—those proceedings do not toll the limitations period because they were not properly filed within the meaning of § 2244(d)(2). Robinson’s new-trial motions and renewed appeal were dismissed as untimely, and his state habeas petitions were dismissed for failure to comply with filing requirements. A post-conviction pleading that is properly filed within the meaning of § 2244(d)(2) is delivered and accepted “in compliance with the applicable laws and rules governing filings.” *Artuz v. Bennett*, 531 U.S. 4, 8 (2000). And “[w]hen a postconviction petition is untimely under state law, ‘that [is] the end of the matter’ for purposes of § 2244(d)(2).” *Pace v. DiGuglielmo*, 544 U.S. 408, 414 (2005) (quoting *Carey v. Saffold*, 536 U.S. 214, 226 (2002)). Robinson’s § 2254 habeas petition was filed in January 2023, at the earliest, after the limitations period expired.

The one-year statute of limitations set forth in § 2244(d) “is subject to equitable tolling in appropriate cases.” *Holland v. Florida*, 560 U.S. 631, 645 (2010). “[A] ‘petitioner’ is ‘entitled to equitable tolling’ only if he shows ‘(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way’ and prevented timely filing.” *Id.* at 649 (quoting *Pace*, 544 U.S. at 418). “The party seeking equitable tolling bears the burden of proving he is entitled to it.” *Robertson v. Simpson*, 624 F.3d 781, 784 (6th Cir. 2010).

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Reasonable jurists would not debate the district court's determination that Robinson failed to establish entitlement to equitable tolling because he showed neither a diligent pursuit of his rights nor an extraordinary circumstance that prevented him from filing a timely habeas corpus petition. *See Holland*, 560 U.S. at 649. Robinson asserted that equitable tolling applied because he diligently pursued his rights when he "attempted to file a delayed direct appeal to" the Ohio Supreme Court on April 22, 2022, but the clerk refused to file it. But Robinson failed to demonstrate diligence by showing that his delayed direct appeal was timely or otherwise properly filed. *See Pace*, 544 U.S. at 413; *Artuz*, 531 U.S. at 8. He admitted that his pleading was a delayed direct appeal and that it was not accepted for filing by the Ohio Supreme Court. Moreover, Robinson failed to show that an extraordinary circumstance prevented him from timely filing his habeas petition. *See Holland*, 560 U.S. at 649.

In addition, Robinson did not assert, much less make a credible showing of, actual innocence that would allow his habeas corpus petition to proceed despite its untimeliness. *See McQuiggin v. Perkins*, 569 U.S. 383, 386 (2013); *Schlup v. Delo*, 513 U.S. 298, 327 (1995).

Therefore, Robinson's application for a certificate of appealability is **DENIED** and his motion to proceed in forma pauperis is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

No. 25-3066

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Aug 21, 2025

KELLY L. STEPHENS, Clerk

MARTIN ROBINSON,

Petitioner-Appellant,

v.

MICHAEL K. SWARTZ, Warden,

Respondent-Appellee.

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)ORDER

Before: BOGGS, NORRIS, and MURPHY, Circuit Judges.

Martin Robinson, an Ohio prisoner proceeding pro se, petitions the court to rehear en banc its order denying his application for a certificate of appealability. The petition has been referred to this panel, on which the original deciding judge does not sit, for an initial determination on the merits of the petition for rehearing. Upon careful consideration, the panel concludes that the original deciding judge did not misapprehend or overlook any point of law or fact in issuing the order and, accordingly, declines to rehear the matter. Fed. R. App. P. 40(b)(1)(A).

The Clerk shall now refer the matter to all of the active members of the court for further proceedings on the suggestion for en banc rehearing.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

No. 25-3066

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Sep 5, 2025

KELLY L. STEPHENS, Clerk

MARTIN ROBINSON,

Petitioner-Appellant,

v.

MICHAEL K. SWARTZ, Warden,

Respondent-Appellee.

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Before: BOGGS, NORRIS, and MURPHY, Circuit Judges.

Martin Robinson, an Ohio prisoner proceeding pro se, petitions for rehearing en banc of this court's order entered on July 14, 2025, denying his application for a certificate of appealability. The petition was initially referred to this panel, on which the original deciding judge does not sit. After review of the petition, this panel issued an order announcing its conclusion that the original application was properly denied. The petition was then circulated to all active members of the court, none of whom requested a vote on the suggestion for an en banc rehearing. Pursuant to established court procedures, the panel now denies the petition for rehearing en banc.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk