

26-5168

ORIGINAL

No.

Supreme Court, U.S.
FILED

JUN 18 2026

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

MARSHALL NEAL RAY - PETITIONER

-VS-

RYAN THORNELL et al., RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

MASHALL NEAL RAY

EYMAN SOUTH UNIT

P.O. Box 3500

FLORENCE, ARIZONA 85132

1 QUESTION PRESENTED

2 Does the one year period of limitation to file a writ
3 of Habeas Corpus, pursuant to 28 USC § 2244 (d)(1)(D),
4 start when, as here, Counsel did not find the factual
5 basis for the claim or claims presented until the Post-
6 Conviction Relief proceedings?

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LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the Court whose judgment is the subject of this petition is as follows:

• Marshall Neal Ray as petitioner

• Ryan Tharnell, Director of the Arizona Department of Corrections, Rehabilitation

• Kristin Mayes, Attorney General of Arizona

• Arizona Office of the Attorney General

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APPENDIX

12	A: United States Court of Appeals orders/Rehearing
13	B: District Courts order
14	C: Magistrates R & R
15	D: Arizona Supreme Court's order
16	E: Superior Court's order
17	F: Superior Court's order accepting Mr. Ray's petition for post-conviction relief as timely filed
18	The Arizona Supreme Court's order granting extension of time to file a petition for review.

TABLE OF AUTHORITY

1		
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3	28 USCS § 1254 (1)	2
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5	28 USCS § 2244(d)(1)(D)	11, 4, 5
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7	USCS Const. Art. I § 9 cl 2	5
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a Writ of Certiorari issue to
review the judgment below

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States Court of Appeals appears
at Appendix A to the petition and is unpublished.

The opinion of the United States District Court appears
at Appendix B to the petition and is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was June 1, 2026

A timely petition for rehearing was denied by the United States Court of Appeals on the following date:
and a copy of the order denying rehearing appears at Appendix A. June 1, 2026

The jurisdiction of this Court is invoked under 28 U.S.C §1254 (1).

STATEMENT OF THE CASE

Mr. Ray went to trial to prove his innocence. However, he was found guilty and was basically sentenced to the rest of his life in prison. If Mr. Ray had been guilty he would have taken a plea and been out of prison within Ten to Fifteen years.

Even though Mr. Ray knew he was innocent and his trial was fundamentally unfair, being a layman in the science of law he did not know how to prove it. He did not know what issues he could present or how to present them. Mr. Ray needed the guiding hand of counsel to investigate and present his issues on Appeal. Nevertheless, without doing a proper investigation Mr. Ray's Direct Appeals Counsel filed an Anders Brief and his PCR counsel filed a letter of completion.

Mr. Ray could not imagine how they could not investigate the factual and legal aspect of his case before they stated they found no colorable claims. Mr. Ray talked to his family members about his situation, he explained to them the only way he would have a chance to gain his freedom was through the help of counsel. Mr. Ray's sister informed him, even though it would be difficult financially, she would try to hire counsel to represent him in the post-conviction proceedings.

Once counsel investigated the factual and legal aspect of Mr. Ray's case she presented his colorable claims.

Nevertheless, the Superior Court, Court of Appeals, and the Arizona Supreme Court denied relief. During Mr. Ray's Direct Appeal and post-conviction proceedings the Arizona Courts found accepted his petitions as being timely filed. See exhibit (E)

During Mr. Ray's Writ of Habeas Corpus is the first time the State presented an issue of timeliness.

THE REASON FOR GRANTING THE WRIT

The only way Mr. Ray could discover his claims was through the guiding hand of counsel. With due diligence the first time Counsel discovered the claims Mr. Ray presented in his Writ of Habeas Corpus was during his Post-Conviction Relief Proceeding.

In her initial filing counsel stated in a legally binding document that Mr. Ray filed his Writ of Habeas Corpus in a timely manner. The state disputed the timeliness of Mr. Ray's petition, the state argued that Mr. Ray filed his Petition for Post-Conviction Relief outside the statutory time frame. Nevertheless, the state admitted that the court accepted the Petition for Post conviction Relief as timely. The magistrate sided with the state and Recommended that Mr. Ray's petition for a writ of Habeas Corpus be dismissed for being untimely. Counsel objected to the Magistrate's R&R, even though Counsel admitted Mr. Ray's Petition for Post-Conviction Relief was filed outside the statutory time period, she argued when construing whether the petition for a writ of habeas corpus was timely the court must take into consideration 28 USC § 2244 (d)(1)(D). § 2244 (d)(1)(D) states:

A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a state court. The limitation period shall run from the latest of . . . the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence."

Counsel informed the District court that she discovered the claims in the post-conviction proceedings. Thereby, the

1 the one year statute of limitation pursuant to 28 USCS §
2 2244 (d)(1)(D) did not start until Mr. Ray's petition for post-
3 conviction relief proceedings. And since she filed the petition
4 for a writ of habeas corpus within one year of the Arizona
5 Supreme Court's decision to deny review of the post-conviction review
6 proceedings, Mr. Ray's petition for a writ of habeas corpus was
7 timely filed.

8 Nevertheless, the District Court adopted the Magistrate's R & R.
9 The District Court ultimately found that the time between the
10 Arizona Supreme Court's decision to deny review during Direct Review
11 and Mr. Ray filed his Notice for Post-Conviction Relief was not tolled.
12 The District Court's decision was contrary to the plain Text
13 of 28 USCS § 2244 (d)(1)(D). (Exhibit (B))

14 The Ninth Circuit denied a Certificate of Appealability, thereby,
15 the question presented is squarely before this Court and is
16 of Nationwide importance because it deals with an individual's
17 Constitutional right to present his/her claims or grievance in
18 a writ of Habeas Corpus. See USCS Const. Art. I, § 9, cl 2.
19 (The Ninth Circuit's decision is attached in Exhibit (A)).

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CONCLUSION

22 The question that is squarely before this Court today is whether
23 the one year period of limitation to file a writ of habeas corpus,
24 pursuant to 28 USCS § 2244 (d)(1)(D) start to run, when as here,
25 counsel did not find the factual basis for the claim or claims
26 presented until the Post-Conviction proceedings.

27 Under the plain text of 28 USCS § 2244 (d)(1)(D) the one
28 year statutory limitation starts to run when, as here, the
29 date on which the factual predicate of the claim or claims

1 presented was discovered by counsel in Mr. Ray's first post-
2 conviction relief proceeding. In addition, the post-conviction
3 relief proceeding tolled the one year statutory limitation between
4 the time counsel discovered the claim and the Arizona Supreme
5 Court denied review.

6 For the above stated reasons I am respectfully requesting in
7 the interest of justice to grant the writ of certiorari.

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9 RELIEF REQUESTED

10 To remand my case back to the District Court with the
11 instruction to review my claims on the merits.

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13 Respectfully submitted this 15 day of June 2026

14 x *Manhll* *Manhll*

15 CERTIFICATE OF COMPLIANCE

16 This petition was handwritten and contains no more than 12 pages
17 not including attachments. x *Manhll*
18 *Manhll*

19 I swear under oath and penalty of perjury everything written
20 in this petition is true to the best of my knowledge or belief.

21 x *Manhll*
22 *Manhll*
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