

26-5879
No. _____

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

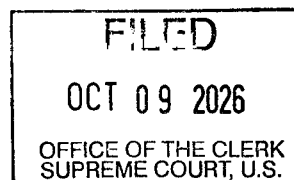
JOHN C. DOUGLAS,

Petitioner,

v.

TYRELL DAVIS

Respondent.



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

PETITION FOR WRIT OF CERTIORARI

John C. Douglas, No. 118777
Idaho Maximum Security Institution
P.O. Box 51
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Pro se

QUESTIONS PRESENTED

1. Whether Mr. Douglas's federal habeas petition was timely.
2. Whether Mr. Douglas's trial counsel were ineffective.

PARTIES TO THE PROCEEDINGS BELOW

The parties to the proceedings below in the Ninth Circuit were Petitioner John C. Douglas and Respondent Tyrell Davis.

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Petitioner John C. Douglas respectfully submits this petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINION BELOW

A copy of the decision below is attached as Appendix A, App. 001.

JURISIDICTIONAL STATEMENT

On August 5, 2026, the Ninth Circuit issued its decision denying a certificate of appealability (COA). *See App. A*. This petition is therefore timely filed.

STATEMENT OF THE CASE

This case arises from a murder prosecution in Idaho state court against Petitioner John Douglas and his co-defendant Anthony Robins. Prior to their trial, attorney-client material for both men was seized by law enforcement and provided to prosecutors. *See State v. Robins*, 431 P.3d 260, 263 (Idaho 2018). Both men were later convicted. Mr. Robins' trial counsel raised a challenge to the attorney-client violation and as a result his conviction was reversed on appeal. *See id.* at 440. However, Mr. Douglas's attorneys failed to join his co-defendant's motion or to assert the same issue. *See App. 002*.

In Mr. Douglas's direct appeal, he pursued several unrelated arguments, all of which were rejected in an opinion released on January 9, 2018. *See State v. Douglas*, No. 44538, 2018 WL 330142 (Idaho Ct. App. Jan. 9, 2018). On February 7, 2018, Mr. Douglas filed a state post-conviction petition. *See App. 005*. That petition did not claim that trial counsel was ineffective for failing to pursue the attorney-

client violation. *See Douglas v. State*, No. 50001, 2024 WL 1928848, at *2 (Idaho Ct. App. May 2, 2024). Mr. Douglas appealed the denial of the petition but later voluntarily dismissed the appeal. *See id.*

On June 7, 2019, Mr. Douglas filed a successive state post-conviction petition. *See App. 006.* This time, he did plead a claim of ineffective assistance related to the attorney-client issue. *See Douglas*, 2024 WL 1928848, at *2. The petition was denied as untimely in an opinion issued by Idaho's intermediate appellate court on May 2, 2024. *See id.* at *5. On August 9, 2024, Mr. Douglas filed a federal habeas petition with the attorney-client issue. *See App. 010.* The district court dismissed the petition on timeliness grounds. *See App. 021.* On appeal, the Ninth Circuit declined to issue a COA. *See App. 001.*

REASONS FOR GRANTING THE WRIT

I. Mr. Douglas's federal habeas petition was timely.

The lower courts were wrong to find Mr. Douglas's federal habeas petition untimely, as he was entitled to statutory tolling.

Because the Ninth Circuit denied a COA, reversal on certiorari review is necessary if Mr. Douglas made below a "substantial showing of the denial of a constitutional right." § 2253(c)(2). Under that standard, the applicant is required to "demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 483

(2000).¹ “This threshold inquiry does not require full consideration of the factual or legal bases adduced in support of the claims.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). The applicant is not obligated to “demonstrate an entitlement to relief.” *Id.* at 337. “Indeed, a claim can be debatable even though every jurist of reason might agree, after the COA has been granted and the case has received full consideration, that petitioner will not prevail.” *Id.* at 338.

Here, the district court dismissed Mr. Douglas’s habeas petition on the sole basis of a finding that it was untimely. *See App.* 002–18. Under those circumstances, the petitioner is compelled to prove “that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 478. Mr. Douglas can satisfy that burden.

The limitations analysis turns on 28 U.S.C. § 2244(d)(2). Section 2244(d)(2) tolls the federal habeas statute of limitations during the time in “which a properly filed application for State postconviction or other collateral review . . . is pending.” Below, the district court concluded that Mr. Douglas’s federal habeas petition was untimely because his second state post-conviction application was not “properly filed” within the meaning of § 2254(d)(2). *See App.* at 011–17. That determination rested on the fact that the Idaho Court of Appeals deemed Mr. Douglas’s post-conviction petition untimely as a matter of state law. *See id.* However, the correctness of the district court’s analysis on this front is reasonably debatable.

¹ Unless otherwise indicated, all internal quotations are omitted, all emphasis is added, and all citations are cleaned up.

It is well-established that state courts are not permitted to construct “an obvious subterfuge to evade the consideration of a federal issue.” *Peltier v. Wright*, 15 F.3d 860, 862 (9th Cir. 1994) (citing *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975)). Reasonable jurists could debate whether the Idaho Court of Appeals engaged in such a subterfuge in Mr. Douglas’s case when it labeled his second post-conviction petition untimely.

The Idaho Court of Appeals found that a supposed delay of ten months in filing Mr. Douglas’s second post-conviction petition would have been unreasonable. *See Douglas*, 2024 WL 1928848, at *5. In reaching that conclusion, the Court of Appeals cited a single case: *Charboneau v. State*, 174 P.3d 870 (Idaho 2007). *See Douglas*, 2024 WL 1928848, at *5. But in *Charboneau* the delay was *thirteen months*. *See* 174 P.3d at 875. The difference between ten and thirteen months is especially notable in the context of Idaho post-conviction law. That is because *first* petitions for post-conviction relief must be filed within one year from the end of the direct appeal. *See* Idaho Code § 19-4902(a). In the capital arena, the Idaho courts looked to the corresponding statutory deadline for first petitions when they established a forty-two-day clock for second petitions. *See Pizzuto v. State*, 202 P.3d 642, 649 (Idaho 2008). If the Idaho courts took the same approach in non-capital cases, they would adopt a one-year rule, and the eight months at issue here would not have rendered Mr. Douglas’s petition untimely. When the Idaho Court of Appeals instead relied on a single inapposite case to hold against Mr. Douglas a different, amorphous “reasonableness” timeline, it resorted to a subterfuge to evade

federal review. *See Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980); *Bouie v. Columbia*, 378 U.S. 347, 354 (1964); *Ward v. Bd. of Cnty. Cmm'rs of Love Cnty., Okla.*, 253 U.S. 17, 22 (1920). Because such subterfuges are prohibited by federal law, Mr. Douglas's post-conviction petition must be regarded as properly filed under § 2244(d)(2). And since neither the State nor the district court below suggested that Mr. Douglas's petition would be untimely in the event that he qualified for tolling pursuant to § 2244(d)(2), the limitations question is properly certified for appeal.

The inference of subterfuge is strengthened by the Idaho Court of Appeals misleading characterization of the timeline in Mr. Douglas's post-conviction proceedings. The Idaho Court of Appeals rejected Mr. Douglas's second petition as untimely with reference to its belief that, "at the time Douglas filed his first post-conviction petition, he knew the facts underlying the claim *and that relief had been granted on Robins' motion.*" *Douglas*, 2024 WL 1928848, at *3 (emphasis added). That is inaccurate. Mr. Douglas filed his initial post-conviction petition in February 2018. *See App. 005*. Although Mr. Robins secured limited relief from the trial court for the attorney-client violation, he appealed its scope. That appeal was successful, for the Idaho Supreme Court vacated his conviction on August 2, 2018. *See State v. Robins*, No. 44296, 2018 WL 3651431 (Idaho Aug. 2, 2018). That result was then finalized in a substitute opinion issued on November 30, 2018. *See State v. Robins*, 431 P.3d 260, 275 (Idaho 2018). In his second state post-conviction petition, which was filed in June 2019, Mr. Douglas contended that his trial counsel was ineffective

for failing to join his co-defendant's challenge to the jail-cell search or to otherwise pursue the same issue. *See* App. 006–007.

The Idaho Supreme Court did not grant the relief Mr. Robins was ultimately seeking—vacatur of his conviction—until, at a minimum, August 2, 2018, when the initial opinion was published. *See Douglas*, 2024 WL 1928848, at *2. By then, Mr. Douglas's first post-conviction petition had been dismissed by the district court. *See* Dist. Ct. Dkt. 10-1 at 3. It simply does not make sense to conclude, as the Idaho Court of Appeals did, that relief had been granted to Mr. Robins in any meaningful sense by the time Mr. Douglas filed his first post-conviction petition.

Presumably, the Idaho Court of Appeals in the highlighted passage was referring to the fact that the trial judge in Mr. Robins' case awarded him "partial relief from a violation of his attorney-client privilege." *Robins*, 431 P.3d at 262. Yet that was not the relevant form of relief. Indeed, Mr. Robins himself was unsatisfied with that remedy and appealed it, thereby eventually persuading the Idaho Supreme Court to set aside his conviction. *See id.* at 275. It was illogical for the Idaho Court of Appeals to claim that relief had already been granted to Mr. Robins in any way that mattered by the time Mr. Douglas filed his first post-conviction petition. That distortion of the record further supports Mr. Douglas's theory that the Idaho Court of Appeals engaged in subterfuge to obstruct his access to federal habeas review. Although the federal district court defended the Idaho appellate judges' distinct determination that Mr. Douglas could have pursued his claim earlier, *see* App. 019, it did not meaningfully engage with the fact that it was

nevertheless incorrect for the 2024 opinion to maintain that “relief had been granted on Robins’ motion” during the pertinent timeframe, *Douglas*, 2024 WL 1928848, at *3. The district court’s elision of this issue leaves its ultimate conclusion reasonably debatable.

That result is not changed by the district court’s discussion of Idaho’s constantly moving goalposts with respect to successive post-conviction deadlines. See App. 011–017. The district court accepted that one year was the deadline in 1999 under *Hernandez v. State*, 992 P.2d 789 (Idaho Ct. App. 1999), which would have made Mr. Douglas’s petition timely. See App. 014. But according to the district court, that rule was abrogated by *Murphy v. State*, 327 P.3d 365 (Idaho 2014). See App. 014. Tellingly, though, *Murphy* says nothing about timeliness. The words “timeliness,” “limitations,” and “deadline” do not appear in the opinion. See 327 P.3d 365. As the district court below correctly noted, *Murphy* is a case about the “right to effective assistance of counsel during post-conviction proceedings.” App. 014. That has no evident connection to the deadline question at issue here. It is entirely unclear how a petitioner was supposed to divine from *Murphy* that limitations law in Idaho had somehow shifted.

From *Murphy*, the district court went to *Oser v. State*, No. 41249, 2014 WL 1494233 (Idaho Ct. App. Apr. 15, 2014). See App. 015. It is fatal to the district court’s reliance that *Oser* is unpublished and announces at the very outset that it does *not* “constitute precedent.” 2014 WL 1494233. By definition, it could not have changed Idaho law or abrogated *Hernandez*.

That left the district court with only one case: *Schwartz v. State*, 177 P.3d 400 (Idaho Ct. App. 2008). *See* App. 015. Notably, *Schwartz* did not purport to overrule *Hernandez*. Instead, *Schwartz* included a hazy passage possibly distinguishing *Hernandez*'s one-year deadline, though leaving it entirely unclear on what grounds. *See* 177 P.3d at 403–04. It would be impossible for a post-conviction petitioner to have any idea, after *Schwartz*, that the one-year rule from *Hernandez* had been overruled. Rather, what this line of cases reveal is an Idaho Court of Appeals straining to maintain as much ambiguity as possible about when the deadline actually is, so that it can declare successive petitions untimely on a whim with whatever due date it prefers to assign for that particular inmate. Under the district court's reasoning, the Idaho judiciary is able to evade federal habeas review based on a tortured reconstruction of these constantly moving goalposts. That is the definition of subterfuge. At a minimum, the subterfuge theory is "adequate to deserve encouragement to proceed" to a full appeal. *Slack*, 529 U.S. at 483. It follows that the Ninth Circuit's order denying a COA should be reviewed and reversed.

II. Mr. Douglas's claim is meritorious.

After the timeliness hurdles is cleared, there can be no serious doubt that a COA is justified on the merits. Mr. Douglas is alleging that his trial counsel were ineffective for failing to join his co-defendant in challenging the jail-cell search that led to attorney-client material being turned over to the prosecution. *See* App. 002. As the district court below rightly stated, this claim was "common to both cases"

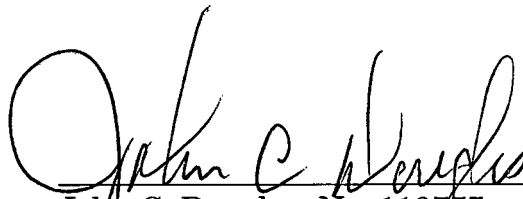
and still Mr. Douglas's attorneys "did not join Robins' motion or raise the claim" for their client. *Id.* The attorney-client claim was undeniably meritorious, as it led to Mr. Robins's conviction being vacated. *See Robins*, 431 P.3d at 275. All that Mr. Douglas's attorney had to do was to join a winning motion where the work was entirely being done by other lawyers. A defense attorney who does not take such an easy and obvious step to protect his client's rights is not providing assistance that is "reasonable considering all the circumstances," and he therefore renders deficient performance. *Strickland v. Washington*, 466 U.S. 668, 688 (1984). Moreover, there is incontrovertibly a "reasonable probability" of a different result, *id.* at 694, because Mr. Robins's attorneys avoided the error and *obtained* a different result for their client. The merits of Mr. Douglas's ineffectiveness claim clear the low COA bar with ease, and the substantive issue qualifies for certification, which this Court should order after granting certiorari.

CONCLUSION

The petition for certiorari should be granted.

Respectfully submitted,

State of Idaho
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John Douglas appeared
before me Paisley Holmes
on 10/8/2026.



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