

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 15, 2026

Christopher M. Wolpert
Clerk of Court

VERAGI WILLIAMS,

Petitioner - Appellant,

v.

SCOTT TINSLEY, Warden,

Respondent - Appellee.

No. 25-6175
(D.C. No. 5:25-CV-00889-D)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **HOLMES**, Chief Judge, **MORITZ** and **FEDERICO**, Circuit Judges.

Veragi Williams, an Oklahoma prisoner proceeding pro se,¹ seeks a certificate of appealability (“COA”) to appeal the district court’s dismissal of his 28 U.S.C. § 2254 habeas application. We deny a COA and dismiss this matter.

I

In June 2000, an Oklahoma County jury convicted Mr. Williams of three counts of robbery with a dangerous weapon, three counts of burglary, one count of larceny of an automobile, and one count of possession of a firearm. Two months later, the judge who

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ We liberally construe Mr. Williams’s arguments, but do not advocate on his behalf. *Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008).

presided over Mr. Williams’s trial sentenced him to consecutive imprisonment terms totaling 340 years. In January 2002, the Oklahoma Court of Criminal Appeals (“OCCA”) affirmed the convictions and sentences. Mr. Williams did not seek further review of his direct criminal proceedings.

Over sixteen years passed. Then, in August 2018, he petitioned the Oklahoma County court to provide a photo lineup related to the underlying criminal case, which that court denied. Mr. Williams later filed several additional unsuccessful mandamus petitions regarding the photo lineup with the Oklahoma County court and the OCCA. In an order denying one such petition, the OCCA stated “the record reflects [Mr. Williams] has been advised that the photo lineup was not admitted into evidence as an exhibit and is not in the court file.” R. at 17 (quoting *Williams v. Okla. Cnty. Dist. Ct.*, No. MA-2021-0140, slip op. at 2 (Okla. Ct. Crim. App. Mar. 19, 2021)).²

In August 2025, Mr. Williams filed a § 2254 habeas application in federal district court related to the missing photo lineup. In support, Mr. Williams asserted, among other things, that “[i]n 2017, [he] requested the Photo Lineup from the Oklahoma County Court Clerk and was informed no such evidence existed in the case record.” R. at 4.

The district court referred the matter to a magistrate judge, who recommended that the district court dismiss Mr. Williams’s § 2254 application as time-barred. The

² The district court took judicial notice of the state-court docket sheets in Mr. Williams’s underlying criminal case, his direct appeal, and in his various mandamus petitions before the Oklahoma courts. See *United States v. Ahidley*, 486 F.3d 1184, 1192 n.5 (10th Cir. 2007) (“Although we are not obligated to do so, we may exercise our discretion to take judicial notice of publicly-filed records in . . . certain other courts concerning matters that bear directly upon the disposition of the case at hand.”).

magistrate judge concluded: the time for Mr. Williams to file a § 2254 application expired in April 2003, one year after his conviction became final in state court; he filed the application over twenty-two years after the deadline; the application contained no basis for statutory or equitable tolling; and Mr. Williams had not asserted actual innocence, so the untimeliness could not be excused.

Mr. Williams timely objected, asserting that “[t]he factual basis” for his claims “could not have been discovered earlier” and he “diligently pursued his rights by filing requests in state court to obtain the photo lineup evidence that was withheld.” R. at 25 (internal quotation marks omitted). He also argued that the actual-innocence exception applied because “[t]he withheld photo lineup and lack of physical evidence constitute new reliable evidence demonstrating that no reasonable juror would have convicted [him].” *Id.*

The district court adopted the magistrate judge’s recommendation, dismissed the § 2254 application, and denied a COA. In addressing Mr. Williams’s objections, the court concluded that even assuming his claims accrued when he first requested the photo lineup in 2017, his application filed in 2025 was still untimely. The district court further concluded that Mr. Williams’s objection about the withheld photo lineup and lack of physical evidence was insufficient to excuse the untimeliness of his application under the actual-innocence gateway.

II

A

Mr. Williams cannot appeal without first obtaining a COA. *See* 28 U.S.C. § 2253(c)(1)(A). To do so, he must make “a substantial showing of the denial of a constitutional right.” § 2253(c)(2). When, as here, the district court denies a habeas application on procedural grounds, the prisoner must show that reasonable jurists could debate whether the application states a valid constitutional claim and whether the district court’s procedural ruling was correct. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). We need only consider the procedural ruling. *See id.* at 485.

Reasonable jurists could not debate the correctness of the district court’s procedural ruling in this case. Habeas applications under § 2254 are subject to a one-year limitations period. 28 U.S.C. § 2244(d)(1). This one-year limitations period starts running on the latest of four possible dates:

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

Id.

Before the district court, Mr. Williams did not identify any specific triggering date for the one-year limitations period. The district court correctly concluded Mr. Williams's conviction became final in April 2002, and his limitations period expired in April 2003. *See Harris v. Dinwiddie*, 642 F.3d 902, 906 n.6 (10th Cir. 2011) (explaining the mechanics of § 2244(d)(1)(A)'s timeliness requirements). He did not file his § 2254 habeas application or any state petitions for post-conviction relief during that one-year window. *See Clark v. Oklahoma*, 468 F.3d 711, 714 (10th Cir. 2006) ("Only state petitions for post-conviction relief filed within the one year allowed by [§ 2244(d)(1)] will toll the statute of limitations."). In the alternative, the district court correctly concluded that even if Mr. Williams's claims accrued under § 2244(d)(1)(D), when he first requested the photo lineup in 2017, his application would still be untimely by several years because it was filed in 2025.

Reasonable jurists could not debate that Mr. Williams's § 2254 application was untimely.

B

A sufficient showing of actual innocence allows a prisoner to bring constitutional claims via § 2254 despite their untimeliness. *See McQuiggin v. Perkins*, 569 U.S. 383, 386 (2013). In this context, "actual innocence" means "that, in light of the new evidence, no juror, acting reasonably, would have voted to find [the prisoner] guilty beyond a reasonable doubt." *Id.* (internal quotation marks omitted). To make such a showing, the prisoner must "present new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not

presented at trial.” *Fontenot v. Crow*, 4 F.4th 982, 1031 (10th Cir. 2021) (internal quotation marks omitted). And a viable claim “involves a probabilistic determination that, in light of all the evidence—old and new; admissible and inadmissible—[it is] more likely than not [that] any reasonable juror would have reasonable doubt.” *Id.* at 1035 (citation and internal quotation marks omitted).

The district court concluded that Mr. Williams’s bare assertion about the withheld photo lineup and lack of physical evidence was insufficient to excuse the untimeliness of his application under the actual-innocence gateway. That conclusion is not reasonably debatable. Mr. Williams does not present new reliable evidence. He relies solely on the purportedly withheld photo lineup and fails to discuss its likely effect on the jury compared to the evidence that was presented at trial. Mr. Williams’s vague and conclusory assertions about evidence not presented at trial do not satisfy the actual-innocence standard.

III

We deny a COA and dismiss this matter. We deny Mr. Williams’s motion to expand the record.

Entered for the Court

Jerome A. Holmes
Chief Judge