

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

March 3, 2025

Christopher M. Wolpert
Clerk of Court

In re: RODNEY DOUGLAS EAVES,

Movant.

No. 25-1063
(D.C. No. 1:18-CV-02619-CMA)
(D. Colo.)

ORDER

Before **HARTZ**, **MATHESON**, and **EID**, Circuit Judges.

Rodney Douglas Eaves is confined in a Colorado prison. He has already challenged the convictions causing his confinement in a 28 U.S.C. § 2254 habeas application. He now moves for authorization to file another § 2254 application raising three claims against his sentence.

We may authorize him to file another habeas “claim only if it falls within one of two narrow categories—roughly speaking, if it relies on a new and retroactive rule of constitutional law or if it alleges previously undiscoverable facts that would establish his innocence.” *Banister v. Davis*, 590 U.S. 504, 509 (2020); *see* 28 U.S.C. § 2244(b)(2).

Under that standard, we cannot authorize Mr. Eaves’s proposed claims. While conceding his new claims do not rely on previously undiscoverable facts, Mr. Eaves says they rely on a new rule of constitutional law. But he claims the source of the purported new rule is an amendment to a Colorado statute. An amendment to a state statute cannot create a new rule of federal constitutional law.

To the extent Mr. Eaves suggests his claims do not need prior authorization, he is mistaken. He underscores that the statutory amendment he relies on occurred after he had filed his first habeas application. But his first habeas proceedings did not *conclude* for several months after the amendment. And so any claims arising from the amendment ripened before the conclusion of the first habeas proceedings. For that reason, Mr. Eaves needs authorization to bring them now. *See In re Weathersby*, 717 F.3d 1108, 1111 (10th Cir. 2013) (recognizing that authorization is not necessary for a claim that did not ripen “until after the conclusion of the previous petition” (internal quotation marks omitted)).

We deny Mr. Eaves authorization to file another § 2254 application. This denial “shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.” § 2244(b)(3)(E).

Entered for the Court

A handwritten signature in black ink, appearing to read 'Christopher M. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk