

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ANTONIO RUFFIN,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 5:24-cv-410-MTT-AGH
	:	
Warden JAMES C. SPANN,	:	
	:	
Respondent.	:	
_____	:	

ORDER AND RECOMMENDATION

Before the Court is Respondent’s motion to dismiss Petitioner’s application for habeas relief as untimely and for failure to state a claim (ECF Nos. 11, 1). For the reasons stated below, it is recommended that Respondent’s motion be granted and Petitioner’s application for habeas corpus relief under 28 U.S.C. § 2254 be dismissed.

BACKGROUND

On July 1, 2010, a jury found Petitioner guilty of one count each of malice murder and felony murder in the Superior Court of Hancock County, Georgia. *Ruffin v. State*, 296 Ga. 262, 262 n.1 (2014). The felony murder count was vacated as a matter of law, and the trial judge sentenced Petitioner to life without the possibility of parole on the malice murder count. *Id.* Petitioner’s motion for new trial was denied on March 5, 2014, and on November 17, 2014, the Georgia Supreme Court affirmed his conviction. *Id.* at 266.

On June 1, 2015, Petitioner filed an application to proceed *in forma pauperis*

(“IFP”) in the Superior Court of Hancock County, Georgia.¹ Resp’t’s Ex. 2, at 1-3, ECF No. 12-2. As determined by the state habeas court judge, a document entitled “Habeas Corpus: Enumeration of Errors” was attached to the IFP motion, wherein Petitioner set forth arguments for why he was entitled to habeas relief. *Id.* at 4-7; Resp’t’s Ex. 7, at 1 n.1, ECF No. 12-7. On March 2, 2023, attorney Linda Sheffield entered an appearance for Petitioner in the state court for the purpose of ensuring that his 2015 habeas petition was “properly filed as a habeas.” Resp’t’s Ex. 3, ECF No. 12-3; Resp’t’s Ex. 4, at 1, ECF No. 12-4. According to Sheffield, Petitioner’s 2015 habeas application was “mistakenly” filed in his 2009 criminal case-in-chief, and the state habeas court clerk “corrected that filing upon the appearance of counsel.”² Resp’t’s Ex. 4, at 1. On April 24, 2023, Sheffield moved to withdraw as Petitioner’s counsel, and that motion was granted on May 9, 2023. *Id.*; Resp’t’s Ex. 5, at 1, ECF No. 12-5.

On May 8, 2023, Petitioner amended his state habeas petition. Resp’t’s Ex. 6, ECF No. 12-6. However, on May 16, 2023, the state habeas court judge dismissed the habeas petition for failure to prosecute under O.C.G.A. § 9-2-60(b) because no written order had been entered in the case for a period of five years. Resp’t’s Ex. 7, at 1-2. In the order, the state habeas court also found that the June 1, 2015, habeas petition could not be considered a valid habeas petition because it was not filed on the state’s authorized habeas corpus form. *Id.* at 1 n.1; *see* O.C.G.A. § 9-10-14(b)

¹ Although filed by the state habeas court clerk on June 1, 2015, Petitioner appears to have completed the form in late May 2015. Resp’t’s Ex. 2, at 2-3, ECF No. 12-2.

² Respondent contends this occurred because Petitioner wrote the case number for his criminal case on the IFP motion and attached enumeration of errors. Resp’t’s Suppl. Br. 3, ECF No. 22.

(stating that clerks could not accept complaints or initial pleadings by state inmates that were not on state-approved forms). On June 1, 2023, Petitioner filed an application for a certificate of probable cause with the Supreme Court of Georgia, appealing the dismissal of his habeas petition. Resp't's Ex. 17, at 25, ECF No. 23-1. On June 26, 2023, he filed a notice of appeal of the dismissal in the state habeas court. *Id.* at 26. The Georgia Supreme Court dismissed Petitioner's application on February 6, 2024. *Id.* at 34. The Georgia Supreme Court noted that while Petitioner's application for a certificate of probable cause was timely, his notice of appeal filed in the state habeas court was untimely and that dismissal was required because the timely filing of a notice of appeal was jurisdictional. *Id.* The court issued its remittitur on February 22, 2024. *Id.* at 33.

While Petitioner was appealing the dismissal of his state habeas petition, he filed a *pro se* motion for reconsideration of the dismissal in the state habeas court on July 20, 2023. Resp't's Ex. 10, ECF No. 12-10. Attorney Rodney Zell entered an appearance on Petitioner's behalf in the state habeas court on December 21, 2023, and filed an amended motion for reconsideration on March 5, 2024. Resp't's Ex. 12, ECF No. 12; Resp't's Ex. 13, ECF No. 12-13. Zell also filed a motion to set aside the state habeas court judgment of dismissal. Resp't's Ex. 14, ECF No. 12-14. The state habeas court denied the motion to set aside on June 24, 2024, but there is no record that it addressed the motion for reconsideration. Resp't's Ex. 16, ECF No. 12-16.

Petitioner filed his original federal habeas application on November 6, 2024.³ Pet. 15, ECF No. 1. On January 13, 2025, the Court ordered Petitioner to file an amended petition asserting “every unalleged possible constitutional error or deprivation” which he contends entitles him to federal habeas corpus relief. Order 1, ECF No. 5. On February 4, 2025, Petitioner filed a motion to amend his petition and also filed an amended petition that specifically incorporated the motion to amend. Pet’r’s Mot. to Amend, ECF No. 8; Am. Pet. 7-8, ECF No. 9. The Court noted that it was unnecessary for Petitioner to file a motion to amend because he had been ordered to file an amended petition, but nevertheless granted the motion and recognized the amended petition—as supplemented by the motion to amend—as the operative pleading in the case. Order, June 26, 2025, ECF No. 18. Respondent filed an answer, motion to dismiss, and exhibits on March 12, 2025 (ECF Nos. 10, 11, 12). Petitioner filed a reply to the answer and responses to the motion to dismiss (ECF Nos. 16, 17, 19). The Court ordered supplemental briefing on September 18, 2025, to address whether Petitioner was entitled to any period of equitable tolling. Order 1, ECF No. 20. Respondent filed a supplemental brief and exhibits on October 8, 2025 (ECF Nos. 22, 23) and Petitioner timely responded with his own supplemental brief (ECF No. 25-2).⁴ Respondent’s motion to dismiss is ripe for review.

³ Although the Court received the habeas application on November 13, 2024, Petitioner signed it on November 6, 2024. Pet. 15. “Under the prison mailbox rule, a *pro se* prisoner’s court filing is deemed filed on the date it is delivered to prison authorities for mailing.” *United States v. Glover*, 686 F.3d 1203, 1205 (11th Cir. 2012) (internal quotation marks omitted). “Unless there is evidence to the contrary, like prison logs or other records, we assume that a prisoner’s motion was delivered to prison authorities on the day he signed it.” *Id.*

⁴ Petitioner moves for permission to file excess pages in his supplemental brief. Pet’r’s Mot. for Leave, ECF No. 25. Petitioner’s motion is **GRANTED**.

DISCUSSION

Respondent moves to dismiss Petitioner's habeas petition on two grounds. First, he contends that Petitioner's petition is untimely. Resp't's Br. In Supp. of Mot. to Dismiss 6-10, ECF No. 11-1. Second, he contends that Petitioner's petition fails to state a claim for relief. *Id.* at 11. The Court agrees on both counts, and therefore, recommends that Respondent's motion to dismiss be granted.

I. Timeliness

A. The Applicable Limitations Period

The Anti-Terrorism and Effective Death Penalty Act ("AEDPA") was enacted primarily to put an end to the unacceptable delay in the review of prisoners' habeas petitions. *See Hohn v. United States*, 524 U.S. 236, 264-65 (1998) (Scalia, J., dissenting) ("The purpose of the AEDPA is not obscure. It was to eliminate the interminable delays in the execution of state and federal criminal sentences, and the . . . overloading of our federal criminal justice system, produced by various aspects of this Court's habeas corpus jurisprudence."). The AEDPA instituted a one-year limitations period for the filing of a "writ of habeas corpus by a person in custody pursuant to the judgment of a State court." 28 U.S.C. § 2244(d)(1). As relevant here, the limitations period 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). Additionally, the limitations period is tolled while a petitioner's "properly filed application for State post-conviction or other collateral review" is pending. *Id.* § 2244(d)(2).

B. Petitioner's Habeas Application is Untimely

Petitioner was convicted on July 1, 2010. *Ruffin*, 296 Ga. at 262 n.1. He timely filed a motion for new trial, which was denied on March 5, 2014. *Id.* The Georgia Supreme Court affirmed his conviction on November 17, 2014. *Id.* at 266. He thereafter had ninety days—until February 17, 2015—to file a petition for a writ of certiorari with the United States Supreme Court.⁵ Sup. Ct. R. 13(1). Petitioner presented no evidence that he did so, and a search of the Supreme Court docket reveals no such petition. Thus, by February 18, 2015, Petitioner's conviction was final, and the limitations period for filing his habeas petition began to run. *See* 28 U.S.C. § 2244(d)(1)(A) (explaining that in the context of determining the AEDPA limitations period, the judgment is final on the date of “the conclusion of direct review or the expiration of the time for seeking such review”). Absent statutory tolling, Petitioner had one year thereafter—until February 18, 2016—to file a federal habeas petition challenging his conviction. *Id.* § 2244(d)(1).

In order for the limitation period to be statutorily tolled, a state habeas petition must be “properly filed.” 28 U.S.C. § 2244(d)(2). And for a state habeas petition to be properly filed under Georgia law, a petitioner must use the state-approved habeas form. O.C.G.A. § 9-10-14(b); *Jones v. Henderson*, 285 Ga. 804, 804 (2009) (holding that “to file a habeas corpus petition, a prisoner must complete [the state-approved form]”); *see also Jones v. Johnson*, No. 5:11-cv-174-MTT, 2012 WL 1094711, at *2 (M.D. Ga. Mar. 30, 2012) (finding that the federal limitations period was not

⁵ The ninetieth day fell on Sunday, and the next day was a federal holiday, so the deadline for petitioner to file a petition was February 17, 2015. Sup. Ct. Rule 30(1).

statutorily tolled because the petitioner's state habeas petition did not comply with O.C.G.A. § 9-10-14).

Petitioner contends that he is entitled to statutory tolling under 28 U.S.C. § 2244(d)(2) because he filed a state habeas petition on June 1, 2015, but the state habeas court clerk lost it. Pet'r's Resp. Mot. Dismiss 2, ECF No. 17. Petitioner's specific argument is difficult to decipher. It is not clear if his contention is that the enumeration of errors attached to the June 1, 2015, IFP motion *was* a properly filed habeas petition and the only deficiency is that the Clerk filed it as an attachment, or that he timely filed state habeas petition on the proper form on June 1, 2015—separate from the enumeration of errors attached to the IFP motion—but that the clerk lost it and/or it was possibly destroyed in a courthouse fire.⁶ Pet'r's Suppl. Br. 1-2, ECF No. 25-2.

However, the issue of when Petitioner's state habeas petition was filed and whether it was properly filed in was addressed by the state habeas court itself. First, the state habeas court concluded that "Petitioner did not use the required habeas form." Resp't's Ex. 7, at 1 n.1. Second, the state habeas court noted that the

⁶ Petitioner argues that he filed his habeas petition on the proper form on June 1, 2015, that the state habeas clerk lost it, and that on March 2, 2023, his attorney corrected the mistake and "re-filed" the petition on March 2, 2023. Pet'r's Suppl. Br. 1. However, Petitioner has not submitted a copy of another habeas petition submitted on June 1, 2015, and "re-filed" on March 2, 2023, and the state court records do not show any purported state habeas petitions other than the one attached to Petitioner's June 1, 2015 IFP motion and his May 8, 2023 amended petition. Resp't's Ex. 2, at 4-7; Resp't's Ex. 6, at 1; *see generally*, Resp't's Ex. 17; Resp't's Ex. 18. What the record suggests is that instead of there being a separate habeas petition completed on the proper form that was filed on June 1, 2015, the only petition filed was the enumeration of errors attached to the IFP motion that Ms. Sheffield helped the state habeas court clerk locate in the underlying criminal case and properly file as a separate habeas action on March 2, 2023. Resp't's Ex. 4, at 1. This is corroborated by the fact that Petitioner wrote the state habeas court clerk on February 28, 2018, about the status of his habeas case and attached a copy of the same enumeration of errors, except that it included two additional pages. Resp't's Ex. 21, ECF No. 23-5.

document entitled “Habeas Corpus: Enumeration of Error” could not be considered a valid habeas corpus petition because it was not filed on the state-mandated form. *Id.* And third, the state habeas court concluded that while “a petition” was filed by counsel on March 2, 2023, it was too late to prevent dismissal under O.C.G.A. § 9-2-60(b), and thus, was “a nullity.” *Id.* (internal quotation marks omitted). Petitioner had the opportunity to appeal the state habeas court’s ruling, but he failed to follow proper appellate procedures by filing a timely notice of appeal in the state habeas court. Resp’t’s Ex. 17, at 26, 34.

The Court must give due deference to the state habeas court’s holding that Petitioner’s state habeas petition was not properly filed on June 1, 2015, and was in fact filed—at the earliest—on March 2, 2023.⁷ *See Wade v. Battle*, 379 F.3d 1254, 1260, 1262 (11th Cir. 2004) (holding that federal courts must give “due deference” to a state court’s ruling that an application for state post-conviction relief was not properly filed). In light of such deference, the Court concludes that Petitioner is not entitled to statutory tolling from February 18, 2015, until the limitations period expired on February 18, 2016.

C. Equitable Tolling

Petitioner also argues that he is entitled to equitable tolling. Pet’r’s Suppl. Br. 2. The one-year AEDPA limitations period is subject to equitable tolling only in certain situations. *Holland v. Florida*, 560 U.S. 631, 645 (2010). A petitioner must

⁷ The Court recognizes that the state habeas court dismissed Petitioner’s state habeas petition under Georgia’s five-year rule, but that does not alter the fact that the state habeas court specifically held that Petitioner’s state habeas petition was not properly filed.

show “(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 (quotation marks omitted). A petitioner need not show “maximum feasible diligence,” but only must demonstrate “reasonable diligence.” *Id.* at 653. However, “[e]quitable tolling of AEDPA’s time bar is an extraordinary remedy limited to rare and exceptional circumstances and typically applied sparingly.” *Thomas v. Att’y Gen., Fla.*, 795 F.3d 1286, 1291 (11th Cir. 2015) (quotation marks omitted). The burden of establishing the appropriateness of equitable tolling is on the petitioner, and his allegations “must be specific and not conclusory.” *Hutchinson v. Florida*, 677 F.3d 1097, 1099 (11th Cir. 2012). He must also “show a causal connection between the alleged extraordinary circumstances and the late filing of the petition.” *San Martin v. McNeil*, 633 F.3d 1257, 1267 (11th Cir. 2011).

Petitioner raises various arguments for why he believes he is entitled to equitable tolling. He re-asserts that the state habeas court clerk “lost” his petition. Pet’r’s Suppl. Br. 1. He also argues that he “diligently wrote letters to the clerk that went unanswered for years,” and though the records produced by Respondent only show two letters in a nearly eight year period, Petitioner argues that he sent sixteen letters. *Id.* at 1, 8; Resp’t’s Ex. 19, ECF No. 23-3; Resp’t’s Ex. 21. Petitioner’s explanation for why he cannot produce copies of this additional correspondence is not clear, but he states that he provided many of his legal documents to a girlfriend from whom he later separated and also argues that relevant documents were destroyed in

a fire at the Hancock County courthouse.^{8, 9} Pet'r's Suppl. Br. 5-6, 13. Petitioner also points out that he hired an attorney to correct the state habeas court clerk's "mistake," though the record shows that it was not until 2023 that an attorney entered an appearance. *Id.* at 1; Resp't's Ex. 3, at 1. Petitioner also argues that if he filed his petition on the wrong form, then the clerk should have refused to file it and returned it to him. Pet'r's Suppl. Br. 8. This is possibly true, *see* O.C.G.A. § 9-10-14(b) (directing clerks not to accept for filing any action by an inmate unless on a state-approved form), but as seems to be clear from the record, the clerk either mistakenly filed the purported habeas petition in the underlying criminal case or, as Petitioner contends, lost it.

However, the Court concludes that none of these listed obstacles are sufficient to constitute exceptional circumstances warranting equitable tolling. As outlined above, it took Petitioner almost eight years—from June 2015 to March 2023—to correct the issue of the misfiled or lost habeas petition. Even then, the record fails to show that Petitioner ever filed a habeas petition on a state-approved form. While a petitioner is not required to show "maximum feasible diligence," the Court concludes that Petitioner has not demonstrated even "reasonable diligence." *Holland*, 560 U.S. at 653; *see Logreira v. Sec'y Dep't of Corr.*, 161 F. App'x 902, 904

⁸ In his application for a certificate of probable cause to the Georgia Supreme Court, Petitioner alleged that family members had copies of e-mails and other documents proving his diligence in prosecuting his state habeas petition, but he has produced none of those documents to the Court. Resp't's Ex. 8, at 2, ECF No. 12-8.

⁹ Petitioner states that the courthouse fire occurred in August 11, 2014, and he does not elaborate on why a fire in 2014 would have destroyed documents filed in 2015 and thereafter. Pet'r's Suppl. Br. 9. Moreover, in response to a 2017 letter from the Federal Defender Program requesting records in a list of cases, the Clerk did not identify the records in Petitioner's case as having been destroyed in the fire. Resp'ts' Ex. 20, ECF No. 23-4; Pet'r's Ex. 7, ECF No. 25-9.

(11th Cir. 2006) (affirming district court’s finding that petitioner was not entitled to equitable tolling where he did not show “any steps, other than mailing letters, to gain information concerning his petition”).¹⁰

II. Failure to State a Claim

Even if Petitioner’s habeas application was timely, it fails to state a claim for federal habeas relief. In both his petition and his amended petition—as supplemented by his motion to amend—the only grounds raised attack perceived deficiencies in the state habeas proceedings, not the underlying criminal case. In his original petition, his sole ground is that the dismissal of his state habeas petition violated due process. Pet. 5. In his motion to amend, his first contention is that the state habeas court clerk’s loss of his petition violated his rights under the “First Amendment, the Due Process Clause of the Fourteenth Amendment, and the Equal Protection Clause.” Pet.’s Mot. to Amend 2. His second contention is that his attorney was ineffective for arguing that his 2015 state habeas petition was “discovered and re-filed” instead of arguing that it was the IFP motion that was found.¹¹ *Id.* at 2-3. The first ground of his amended petition is that the state

¹⁰ The Court further notes that even if Petitioner’s limitations period was equitably tolled until June 15, 2023—when the deadline for him to file his notice of appeal in the state habeas court expired—his federal petition would appear to still be untimely. The limitations period for Petitioner to file his federal petition commenced on February 18, 2015, after the time for him to file a petition for a writ of certiorari with the United States Supreme Court expired, and then ran for 103 days until he filed his purported state habeas petition on June 1, 2015. The deadline for him to file a notice of appeal of the dismissal of his habeas petition in the state court expired on June 15, 2023. The limitations period would have begun running again the next day and would have expired 262 days later on Monday, March 4, 2024. Thus, even if the motion for reconsideration and motion to set aside filed in the state habeas court on March 5, 2024, would otherwise satisfy the requirements for statutory tolling under 28 U.S.C. § 2244(d)(2), they would have been one day late. Petitioner filed his federal petition on November 6, 2024.

¹¹ While Petitioner refers to “appellate counsel,” it is clear in context that he is referring to state

habeas court violated his due process rights by dismissing his petition for failure to prosecute. Am. Pet. 5. His only requested relief is that he be given the opportunity to re-file a state habeas petition. *Id.* at 15. Finally, he admits in his briefing that he is not addressing the “merits of the conviction,” but only seeking “the right to submit and argue his state writ of habeas corpus within the Ware County Superior Court.” Pet’r’s Resp. Mot. Dismiss 3.

However, “while habeas relief is available to address defects in a criminal defendant’s conviction and sentence, an alleged defect in a collateral proceeding does not state a basis for habeas relief.” *Quince v. Crosby*, 360 F.3d 1259, 1262 (11th Cir. 2004); *see also Wilson v. Brooks*, No. 5:22-cv-201-MTT, 2023 WL 12071833, at *2 (M.D. Ga. Nov. 27, 2023) (“[A] defect in a state habeas proceeding without more provides no basis for federal habeas relief.”). Therefore, in addition to untimeliness, the Court recommends that Respondent’s motion to dismiss based on failure to state a claim be granted.

III. Certificate of Appealability

Rule 11(a) of Rules Governing Section 2254 Cases in the United States District Courts provides that “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” A certificate of appealability may issue only if the applicant makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). If a court denies a habeas petition on the merits, this standard requires a petitioner to demonstrate that

habeas counsel. Mot. to Am. 2-3; Pet’r’s Suppl. Br. 2.

“reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When a court denies a habeas petition on procedural grounds without reaching the merits of the petitioner’s application for habeas relief, this standard requires a petitioner to demonstrate 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.” *Id.* at 478. Petitioner cannot meet either of these standards and, therefore, a certificate of appealability in this case should be denied.

CONCLUSION

For the foregoing reasons, it is recommended that Respondent’s motion to dismiss (ECF No. 11) be **GRANTED** and that Petitioner’s application for a writ of habeas corpus (ECF No. 1) be dismissed for untimeliness and failure to state a claim. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within FOURTEEN (14) DAYS after being served with a copy hereof. Any objection should be no longer than TWENTY (20) PAGES in length. See M.D. Ga. L.R. 7.4. The district judge shall make a de novo determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, “[a] party failing to object to a magistrate judge’s findings or recommendations

contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO ORDERED and **RECOMMENDED**, this 5th day of January, 2026.

s/ Amelia G. Helmick
UNITED STATES MAGISTRATE JUDGE