

In re Jones

United States Court of Appeals for the Sixth Circuit

June 16, 2026, Filed

No. 26-5051

Reporter

2026 U.S. App. LEXIS 17530 *; 2026 LX 354458

In re: CEDRIC JONES, Movant.

Counsel: [*1] In re: CEDRIC JONES, Movant, Pro se, Mountain City, TN.

For BRIAN ELLER Warden, Respondent: William True, Office of the Attorney General, Nashville, TN.

Judges: Before: SUTTON, Chief Judge; GIBBONS and WHITE, Circuit Judges.

Opinion

ORDER

Cedric Jones, a pro se Tennessee prisoner, moves for authorization to file a second or successive [28 U.S.C. § 2254](#) petition for a writ of habeas corpus. See [28 U.S.C. § 2244\(b\)\(3\)](#). Jones also moves to reverse the district court's order transferring his [Federal Rule of Civil Procedure 60\(b\)](#) motion to this court for authorization and for recusal of the district court judge on remand. For the following reasons, we vacate in part the district court's order transferring the [Rule 60\(b\)](#) motion and remand for further proceedings. We deny the motion for authorization and the remaining motions.

A jury convicted Jones of three counts of aggravated rape, one count of aggravated sexual battery, and one count of aggravated kidnapping for offenses committed against his 14-year-old daughter. *State v. Jones*, No. M2015-00720-CCA-R3-CD, 2016 WL 3621513, at *1 (Tenn. Crim. App. June 29, 2016). The trial court sentenced Jones to 37 years in prison. *Id.* The Tennessee Court of Criminal Appeals affirmed, and the Tennessee Supreme Court denied permission to appeal. *Id.* Jones unsuccessfully sought state post-conviction relief. See [Jones v. Eller, No. E2024-00212-CCA-R3-HC, 2024 Tenn. Crim. App. LEXIS 518, 2024 WL 4850665, at *1 \(Tenn. Crim. App. Nov. 21, 2024\)](#). Jones also sought federal habeas relief, [*2] raising 13 claims and several subclaims asserting trial and appellate errors, ineffective assistance of counsel, prosecutorial misconduct, and judicial bias. See [Jones v. Eller, No. 23-5174, 2024 U.S. App. LEXIS 2013, 2024 WL 899738, at *1 \(6th Cir. Jan. 29, 2024\)](#). The district court denied Jones's petition, concluding that some claims lacked merit, one was insufficiently pleaded, and the others were procedurally defaulted, and this court denied a certificate of appealability. See *id.*

In 2025, Jones moved for relief from judgment under [Rule 60\(b\)](#), asserting that the district court was biased against him, had failed to consider all relevant facts, and had improperly determined that his claims were procedurally defaulted. He also reargued the merits of all his original habeas claims. The district court construed the motion as a second or successive petition for habeas relief, noting that Jones primarily sought to relitigate his claims, and transferred it to this court for authorization. See [In re Sims, 111 F.3d 45, 47 \(6th Cir. 1997\)](#) (per curiam). At this court's direction, Jones filed a corrected motion for authorization, proposing eight claims: (1) he is actually innocent of aggravated rape as evidenced by inconsistencies between the police report and the victim's trial testimony, (2) his indictment contained a "fatal variance," (3) the [*3] district court violated his due process rights in his initial habeas proceeding, (4) the victim committed perjury at trial, (5) the State withheld the transcript of his preliminary hearing, (6) the indictment was deficient, (7) trial counsel rendered ineffective assistance related to the withholding of his preliminary hearing transcript, and (8) post-conviction counsel rendered ineffective assistance by advising him

that he had no meritorious claims to raise and failing to provide him with his trial records. Jones also argues that the district court erred by construing his [Rule 60\(b\)](#) motion as a second or successive habeas petition.

A district court must treat a [Rule 60\(b\)](#) motion as a second or successive habeas petition if it presents a new claim, "attacks the federal court's previous resolution of a claim *on the merits*," or presents "new evidence in support of a claim already litigated." [Gonzalez v. Crosby, 545 U.S. 524, 531-32, 125 S. Ct. 2641, 162 L. Ed. 2d 480 \(2005\)](#). A [Rule 60\(b\)](#) motion is not treated as a second or successive habeas petition if it instead attacks "some defect in the integrity of the federal habeas proceedings" or "merely asserts that a previous ruling which precluded a merits determination was in error—for example, a denial for such reasons as failure to exhaust, procedural [*4] default, or statute-of-limitations bar." [Id. at 532 & n.4, 538](#). If the motion purports to challenge the integrity of the federal habeas proceeding but "in effect asks for a second chance to have the merits determined favorably," it is properly construed as a second or successive habeas petition. [Id. at 532 n.5](#).

Jones's [Rule 60\(b\)](#) motion in part sought relief on the grounds that the district court was biased and that it improperly determined that he failed to sufficiently plead a claim and procedurally defaulted other claims. The remainder of his 104-page motion is dedicated to rearguing the merits of his initial habeas claims, and the district court properly construed those arguments as second or successive habeas claims that require this court's authorization. But the assertions of judicial bias and erroneous procedural rulings attack the integrity of the habeas proceeding and were properly before the district court under [Rule 60\(b\)](#). See [Gonzalez, 545 U.S. at 532 n.4; Sheppard v. Robinson, 807 F.3d 815, 819 \(6th Cir. 2015\)](#) (recognizing that a [Rule 60\(b\)](#) claim challenging a habeas court's "determination that a claim was time-barred or procedurally defaulted" addressed a "nonmerits" aspect of the proceeding). Consequently, the [Rule 60\(b\)](#) motion must be remanded in part to the district court to consider these arguments.

As to the properly transferred [*5] claims in Jones's [Rule 60\(b\)](#) motion and the claims raised in his motion for authorization, we may not authorize a second or successive habeas petition unless the applicant makes a prima facie showing that the proposed claim is based on "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable" or on new facts that "could not have been discovered previously through the exercise of due diligence" and that, "if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." [28 U.S.C. § 2244\(b\)\(2\), \(b\)\(3\)\(C\)](#).

Jones cannot make the requisite showing. He acknowledges that the claims asserted in his motion for authorization are not based on a new rule of constitutional law or newly discovered evidence as required by [§ 2244\(b\)](#). And the properly transferred claims in his [Rule 60\(b\)](#) motion were raised in his initial habeas petition and are subject to dismissal on that basis. See [28 U.S.C. § 2244\(b\)\(1\)](#).

Finally, Jones argues in his recusal motion that the district court is biased against him, and he requests assignment [*6] to a new judge on remand. Under [28 U.S.C. § 455\(a\)](#), recusal is proper when a judge's "impartiality might reasonably be questioned." The standard is an objective one, requiring recusal only when "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." [Burley v. Gagacki, 834 F.3d 606, 615-16 \(6th Cir. 2016\)](#) (quoting [United States v. Adams, 722 F.3d 788, 837 \(6th Cir. 2013\)](#)). Jones argues that the district court demonstrated bias by referring to his offenses as "very serious" and ruling against him on several motions. But an adverse judicial ruling is "almost never" a valid basis for recusal. [Liteky v. United States, 510 U.S. 540, 555, 114 S. Ct. 1147, 127 L. Ed. 2d 474 \(1994\)](#). Nor are "judicial remarks" that are "critical . . . or even hostile." [Id.](#) The district court's comment on the nature of Jones's convictions was not indicative of bias. See [id.](#) (holding that critical comments may demonstrate bias if "they reveal an opinion that derives from an extrajudicial source" or reveal "a high degree of favoritism or antagonism").

For these reasons, we **VACATE** the district court's order transferring the [Rule 60\(b\)](#) motion to the extent that it raised challenges to the integrity of the habeas proceeding and **REMAND** for consideration of those challenges. We **DENY** the motions for authorization and recusal and **DENY** the motion to reverse as moot.

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