

Federal Habeas Corpus Law in the Ninth Circuit: A Analysis of Jurisdictional Requirements, Procedural Frameworks, and Recent Developments

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FINDINGS

FEDERAL HABEAS CORPUS LAW IN THE NINTH CIRCUIT: A COMPREHENSIVE ANALYSIS OF JURISDICTIONAL REQUIREMENTS, PROCEDURAL FRAMEWORKS, AND RECENT DEVELOPMENTS

Federal habeas corpus law in the Ninth Circuit presents a complex and evolving landscape shaped by statutory constraints, constitutional principles, and decades of judicial interpretation. The writ of habeas corpus, described as the "Great Writ" and constitutionally protected under the Suspension Clause, provides a mechanism for individuals in state custody to seek federal review of constitutional violations underlying their confinement. However, the practical availability of habeas relief in the Ninth Circuit has been substantially constrained since 1996 by the Antiterrorism and Effective Death Penalty Act (AEDPA), which imposed stringent procedural requirements and elevated standards of review that make successful petitions increasingly difficult. This report addresses the principal legal frameworks governing habeas corpus petitions in the Ninth Circuit, examining jurisdictional foundations, procedural prerequisites for filing, substantive doctrines governing relief, and significant recent developments that have reshaped the landscape for habeas practitioners and petitioners. The analysis encompasses both criminal habeas petitions and the specialized subset of immigration-related habeas petitions, as well as capital case procedures governed by specific statutory provisions. Throughout this discussion, the report emphasizes the distinction between jurisdictional requirements that determine federal court authority to hear claims and procedural rules that govern how claims must be presented, a distinction the Ninth Circuit has worked to clarify in recent decisions.

The Jurisdictional Foundation: Section 2241 and Section 2254 as Competing Vehicles for Habeas Relief

Understanding habeas corpus jurisdiction in the Ninth Circuit requires precise analysis of two overlapping federal statutes that establish different pathways for federal court review depending on the status and claims of the detained person. [28 U.S.C. § 2241][1] provides the general grant of habeas corpus authority to federal courts, stating that writs of habeas corpus may be issued to persons in custody in violation of federal law. [28 U.S.C. § 2254][35], enacted as part of AEDPA in 1996, narrowly tailors this general authority specifically for state prisoners, imposing procedural and substantive limitations that do not apply under § 2241. The relationship between these two statutes has been the subject of considerable Ninth Circuit jurisprudence, with courts working to identify which statute applies in particular circumstances and what consequences flow from filing under the wrong statute.

The Ninth Circuit established that state prisoners in custody pursuant to a judgment of a state court must use § 2254 and cannot invoke § 2241 as an alternative vehicle, even when challenging matters other than the underlying conviction. [In *White v. Estelle*, the Ninth Circuit held that § 2254 is the exclusive vehicle for habeas petitions by state prisoners in custody pursuant to a state court judgment, which has implications for where petitions must be filed.][13] This exclusivity principle means that § 2254 applies as the controlling statute regardless of what the petitioner labels the case or what specific claims are asserted, provided the petitioner is a state prisoner in custody pursuant to a state court judgment. [The Supreme Court, in *Felker v. Turner*, confirmed that the authority of federal courts to grant habeas relief to state prisoners under § 2241 is limited by the requirements of § 2254.][13] The practical consequence is that state prisoners challenging conditions of confinement, transfer to different facilities, or other matters collateral to the conviction itself must still satisfy all § 2254 requirements, including exhaustion of state remedies, compliance with one-year filing deadlines, and deference to state court factual findings.

However, this exclusivity principle contains important exceptions for state prisoners who are not "in custody pursuant to a state court judgment." [The "in custody" requirement of § 2241 is jurisdictional, and federal courts have extended this concept beyond literal physical imprisonment to include individuals subject to restraints not shared by the public generally that significantly confine and restrain their freedom.][48] State prisoners held in pre-trial detention (not yet convicted or sentenced), persons detained pending extradition, and individuals detained pending removal or deportation may invoke § 2241 rather than § 2254 because they are not in custody pursuant to a final state court judgment. The distinction between § 2241 and § 2254 therefore turns not on the substance of the claims but on the legal status of the detention itself-whether the petitioner is restrained by virtue of a final state court conviction and sentence or by virtue of some other form of custody.

For immigration-related habeas petitions, a more complex jurisdictional landscape applies. Congress substantially altered immigration habeas jurisdiction through the REAL ID Act of 2005, which amended § 1252 of the Immigration and Nationality Act to establish judicial review through petitions for review in the courts of appeals for final removal orders. [The Supreme Court in *INS v. St. Cyr* recognized that habeas corpus jurisdiction remains available for certain immigration claims, but the REAL ID Act has significantly limited its scope.][46] District courts retain habeas jurisdiction under § 2241 for immigration detainees in custody but not subject to final removal orders, such as those in § 1226(a) detention pending determination of removability. [The Supreme Court in *DHS v. Thuraissigiam* established that the Suspension Clause protects habeas review only for petitions seeking release from physical custody, not for other forms of relief such as authorization to remain in the country.][43] This limitation has important implications for immigration habeas petitions filed in federal district courts challenging detention decisions by immigration authorities.

The practical significance of the § 2241 versus § 2254 distinction lies in the different procedural requirements each statute imposes. Section 2254 petitions are subject to a one-year statute of limitations measured from the date the state judgment became final, must exhaust all available state remedies before federal review becomes available, and are subject to stringent standards of review under 28 U.S.C. § 2254(d) that require petitioners to show that state court decisions were contrary to clearly established federal law or involved an unreasonable application of such law. Section 2241 petitions, by contrast, contain no explicit statute of limitations in the statute itself, though courts have applied equitable doctrines to limit untimely filings, and the exhaustion requirement applies only to the extent remedies remain available to the petitioner at the time of federal filing. The deferential review standards of § 2254(d) do not apply with equal force to § 2241 petitions, though courts have extended § 2254(d) principles to some § 2241 proceedings depending on whether the state court has adjudicated the claim on the merits.

The "In Custody" Requirement as Jurisdictional Threshold

The "in custody" requirement of § 2241 serves as a jurisdictional prerequisite to federal habeas relief, and the Ninth Circuit has grappled extensively with its proper definition and application. [The Supreme Court in *Williamson v. Grogire* stated that the "in custody" requirement is jurisdictional and must be satisfied at the time the habeas petition is filed.][48] This jurisdictional nature means that if a petitioner is not "in custody" when the petition is filed, the federal court lacks subject-matter jurisdiction to hear the case, and the case must be dismissed rather than decided on the merits. However, courts have expanded the meaning of "in custody" well beyond literal physical imprisonment to include various forms of governmental restraint on liberty.

[Federal courts have recognized that habeas jurisdiction has been extended beyond that which the most literal reading of the statute might require to individuals who, though not subject to immediate physical imprisonment, are subject to restraints not shared by the public generally that significantly confine and restrain

their freedom.][48] Persons released on parole, individuals sentenced to rehabilitation programs with substantial limitations on movement, and even individuals subject to significant conditions of release have been found to satisfy the "in custody" requirement. The question is not whether the custody is the most severe possible but whether the restraint on liberty is sufficiently substantial and differentiated from the general freedom shared by the public that habeas review is appropriate.

For immigration detainees, the in custody requirement presents particular complexities. [The Supreme Court in *Thuraissigiam* held that the scope of the writ protected by the Suspension Clause does not extend to relief other than secure release from custody, meaning that petitioners seeking authorization to remain in the United States or to have removal orders reconsidered must seek other remedies if they have been physically removed or are no longer in custody.][43] An immigration detainee removed and deported cannot file a habeas petition seeking review of the removal order because he or she no longer satisfies the "in custody" requirement-the actual physical restraint has ended. However, [an immigration detainee still in United States custody may seek habeas corpus review of a final order of removal under § 2241.][48]

The venue component of the "in custody" requirement has also generated significant Ninth Circuit jurisprudence. [Federal habeas petitions generally must be filed in the federal district court with jurisdiction over the filer's place of custody, also known as the district of confinement.][1] This venue rule ensures that the habeas petition is filed in the district where the custodian operates and where facts regarding the custody can be most easily developed. However, [if venue is proper at the time of filing, the district court ordinarily will retain jurisdiction even if DHS subsequently transfers the petitioner to another district.][1] A petitioner cannot defeat jurisdiction by seeking to have the case transferred to a district where better-disposed judges might preside; once jurisdiction attaches in the district of confinement at the time of filing, it remains proper.

AEDPA's Procedural Architecture: The One-Year Statute of Limitations and Its Temporal Dimensions

The Antiterrorism and Effective Death Penalty Act of 1996 fundamentally restructured federal habeas corpus practice by imposing a one-year statute of limitations on all habeas corpus petitions filed by state prisoners pursuant to state court convictions. [28 U.S.C. § 2244(d)(1) provides that a one-year time period of limitation applies to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a state court.][2] This statute of limitations represents a dramatic change from prior habeas practice, which contained no federal statute of limitations and allowed habeas petitions to be filed at any time. The temporal mechanics of this limitation are complex, requiring careful attention to when the one-year period begins to run, what events tolls the period, and what equitable doctrines might extend the deadline under exceptional circumstances.

The commencement date for the one-year limitations period depends on which of four specified events occurs first, according to the statutory text. [The limitation period shall run from the date the judgment of conviction and sentence is final on direct appeal (not from the date of conviction or sentencing); or from the date on which the time for seeking direct review expires; or from the date on which the petitioner's direct appeal is finally decided by the state courts; or from the date on which the petitioner discovers or reasonably should have discovered the basis for the claim.][2] Most commonly, the period begins running when the state's direct appeal process concludes-either when the last state appellate court denies review or when the time for seeking review in the highest state court expires. [The Ninth Circuit has held that even if a petition for certiorari is not filed in the Supreme Court, the limitations period does not commence until the ninety-day period for filing the petition expires.][2] This means that federal practitioners must calculate not only state direct appeal timelines but also the federal certiorari period, as the habeas statute of limitations does not begin running until this

ninety-day window closes.

The statutory tolling provision of § 2244(d)(2) provides crucial relief from the one-year deadline in many cases. [Under the express language of § 2244(d)(2), the limitations period is tolled during the pendency of a "properly filed" motion for state postconviction or other collateral review with respect to a habeas petitioner's conviction.][2] This tolling provision serves to encourage federal practitioners to have clients exhaust state remedies before filing federal habeas petitions, as the one-year federal deadline effectively pauses while state postconviction proceedings are pending. However, the tolling provision applies only to "properly filed" applications—a term of art that the Supreme Court has interpreted narrowly to require compliance with state procedural requirements for filing itself (form, filing fees, delivery location, etc.), though not necessarily compliance with substantive exhaustion requirements or substantive adequacy of the claims raised.

[A "properly filed" motion for state collateral review requires compliance with the formal procedural requirements for filing, such as the form of the document, the time limits upon its delivery, the court and office in which it must be lodged, and the requisite filing fee.][2] Courts have held that untimely filed petitions that do not relate back to previously timely filed petitions will not have their relation-back date extended to prevent the federal habeas petition from being untimely. [It has been held that untimely filed habeas petitions do not relate back to previously timely filed petitions that were dismissed without prejudice.][2]

Equitable tolling provides an additional exception to AEDPA's rigid one-year deadline in extraordinary circumstances. [The AEDPA's limitations period is subject to the doctrine of "equitable tolling," which can excuse the untimely filing of a § 2254 habeas petition.][2] However, equitable tolling is available only upon a showing of diligent pursuit of the claim and extraordinary circumstances that stood in the way of timely filing. [The petitioner bears the burden of showing both diligent pursuit of his or her rights and extraordinary circumstances that stood in the way of that pursuit.][52] The Ninth Circuit has recognized that equitable tolling may apply when a petitioner can demonstrate that a prison library's failure to provide access to legal materials created an extraordinary barrier to understanding the one-year deadline. [The Ninth Circuit granted a Certificate of Appealability on whether language difficulty could be sufficient to equitably toll the one-year window for habeas petitions, becoming the first circuit to remand a habeas appeal for further findings on this premise.][52] The court held that the state prison's failure to provide the prisoner with access to the AEDPA text could be an extraordinary barrier to the petitioner's efforts to timely file a habeas petition.

More recently, the Ninth Circuit in *Mendoza v. Carey* applied equitable tolling principles to language barrier situations. [The Ninth Circuit, in *Mendoza*, became the first circuit to remand a habeas appeal for further findings on the premise that language difficulties could create an extraordinary barrier to the filing of a petition for habeas corpus relief.][52] This decision, while protecting access to the writ for non-English-speaking prisoners, stands alone among the circuit courts in recognizing language barriers as sufficient basis for equitable tolling. The court's rationale emphasized that habeas corpus serves as the final safeguard against unconstitutional detention and should remain accessible to all prisoners who diligently pursue their rights despite impediments.

For capital cases, AEDPA provides accelerated timelines through Chapter 154, which permits "fast-tracking" of federal habeas cases for capital prisoners from states offering competent counsel to indigent capital prisoners during state postconviction proceedings. [28 U.S.C. §§ 2261-2266 permit the "fast-tracking" of federal habeas cases for capital prisoners from states that offer competent counsel to indigent capital prisoners during state postconviction proceedings, principally affecting habeas corpus petitioners because it contracts from one year to six months the period in which petitioners may file a timely federal habeas petition.][5] Before a state can utilize Chapter 154's fast-tracking provisions, the Attorney General must certify that the

state has established a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in state postconviction proceedings for death-sentenced prisoners. [Before a state can avail itself of Chapter 154's "fast-tracking" provisions, it must request and receive certification from the Attorney General that it "has established a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners who have been sentenced to death."][5]

The Exhaustion Requirement: State Remedies as Prerequisite to Federal Review

The exhaustion requirement constitutes a foundational principle of federal habeas corpus law, reflecting principles of federalism and comity that require federal courts to afford state courts the first opportunity to correct constitutional violations. [The exhaustion requirement, as codified by AEDPA, directs that an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State.][17] The exhaustion doctrine reflects Congress's desire to accelerate the federal habeas process while still respecting state court judgments by providing states with a full and fair opportunity to correct federal constitutional errors before federal court intervention.

The Supreme Court has articulated that exhaustion doctrine requires petitioners to give state courts one full opportunity to resolve constitutional issues by invoking one complete round of the state's established appellate process. [The Supreme Court has explained that the exhaustion doctrine is designed to give the state courts a full and fair opportunity to resolve federal constitutional claims before those claims are presented to the federal courts, and state prisoners must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review.][16] This requirement typically means that a federal habeas petitioner must have raised claims on direct appeal or through state postconviction proceedings (such as collateral review or motions for reconsideration) before seeking federal review. Federal courts cannot hear claims unless the state courts have had an opportunity to address them through available state remedies.

Critically, the exhaustion requirement is distinct from the statute of limitations and is reviewed for compliance at the time the federal habeas petition is filed, not at some earlier point. [The district court must dismiss a petition that contained claims that were unexhausted "[a]t the time the petition was filed," and if any later petition which might be filed now that the petitioner has apparently exhausted state claims would be time-barred by the AEDPA, the district court must order the petition dismissed with prejudice.][17] The Supreme Court has held that § 2254(b) "provides a simple and clear instruction to potential litigants: before you bring any claims to federal court, be sure that you first have taken each one to state court." A petitioner cannot satisfy the exhaustion requirement by raising some claims in state court and leaving others for federal court.

However, the exhaustion requirement contains important exceptions that allow federal courts to proceed despite unexhausted claims in certain circumstances. [28 U.S.C. § 2254(b)(2) provides affirmatively that "[a]n application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State."][32] This exception applies when the remedies available in state court are no longer effective to protect the petitioner's rights, a circumstance referred to as "futility." Additionally, claims may be considered unexhausted but still cognizable in federal court if state law would not permit the state court to consider them, a subtle distinction that the Ninth Circuit has worked to clarify in recent decisions.

The distinction between procedural default (where a claim has been raised in state court but rejected on state procedural grounds) and unexhausted claims (where a claim has never been presented to state court) has important consequences for federal review. [A claim is procedurally defaulted when the state court denied the claim "based on an adequate and independent state procedural rule," or when a state court would decline to consider the claim "because the prisoner ha[s] failed to meet a state procedural requirement" for presenting it.][8] A procedurally defaulted claim presents a different analytical problem than an unexhausted claim-federal courts ordinarily cannot hear either, but the doctrines governing recovery differ significantly.

Procedural Default as Barrier to Federal Review: The Cause-and-Prejudice Standard

Procedural default doctrine represents one of the most restrictive barriers to federal habeas relief, functioning as a complete prohibition on federal review of claims that were not properly presented to state courts when the opportunity existed. [Federal courts have an arsenal of procedural barriers that they use to deny almost all habeas petitions without ever addressing the merits of the underlying claims, with procedural default being particularly nefarious in preventing prisoners from having their ineffective assistance of trial counsel claims heard in federal habeas cases.][10] A claim becomes procedurally defaulted when a state court has rejected it based on an adequate and independent state procedural rule that the petitioner failed to satisfy, and the petitioner no longer has an opportunity to present the claim in state court.

The Supreme Court established in *Harris v. Reed* and *Coleman v. Thompson* that federal habeas courts ordinarily cannot hear procedurally defaulted claims absent a showing of cause for the default and actual prejudice resulting from the violation. [Generally, federal courts cannot hear procedurally defaulted claims unless the petitioner can show "cause for the default and actual prejudice as a result of the alleged violation."][8] This cause-and-prejudice standard creates a two-part gateway that petitioners must satisfy before federal courts will consider the merits of defaulted claims. The "cause" prong requires showing some extraordinary circumstance that excused the petitioner's failure to comply with state procedural requirements, while the "prejudice" prong requires demonstrating that the constitutional error had a substantial and deleterious effect on the trial or conviction.

The most significant recent development in procedural default doctrine stems from the Supreme Court's decision in *Martinez v. Ryan*, which recognized a narrow exception to the cause-and-prejudice requirement in the specific context of ineffective assistance of trial counsel claims. [Where, under state law, ineffective-assistance-of-trial-counsel claims must be raised in an initial-review collateral proceeding, a procedural default would not bar a federal habeas court from hearing those claims if, in the initial-review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective.][7] This landmark decision recognized that in states requiring claims of ineffective assistance at trial to be raised for the first time in postconviction proceedings, a procedural default of such claims does not necessarily bar federal review if the postconviction counsel who should have raised the claim was ineffective or absent.

The Ninth Circuit has applied and extended *Martinez* through binding en banc precedent. [The Ninth Circuit held en banc that for "procedurally defaulted claims for which *Martinez* is applicable," a federal habeas court "should allow discovery and hold an evidentiary hearing where appropriate to determine whether there was 'cause' under *Martinez* for the state-court procedural default."][8] This Ninth Circuit holding, known as the *Detrich* standard after *Detrich v. Ryan*, required federal courts to engage in factual development when a petitioner alleged that state postconviction counsel was ineffective in failing to raise ineffective assistance of trial counsel claims. However, a subsequent Supreme Court decision substantially limited the scope of *Detrich*.

[In 2022, the Supreme Court held that because "state postconviction counsel's ineffective assistance in developing the state-court record is attributed to the prisoner ... a federal habeas court may not conduct an evidentiary hearing or otherwise consider evidence beyond the state-court record based on ineffective assistance of state postconviction counsel."][14] This decision, issued while *Doerr v. Shinn* was pending before the Ninth Circuit, fundamentally altered the landscape for ineffective assistance claims. Federal courts may no longer develop a record in habeas proceedings based on claims that state postconviction counsel failed to adequately investigate or present evidence; instead, petitioners must return to state court to present new evidence, subject to state procedural rules about successive petitions.

Stay and Abeyance: Permitting Return to State Court Without Losing Federal Review Rights

The stay and abeyance doctrine provides a procedural mechanism allowing federal habeas petitioners to return to state court to exhaust claims that were not previously presented there, while preserving their right to later return to federal court without running afoul of the one-year AEDPA statute of limitations. [In *Rhines v. Weber*, the Supreme Court held that a district court has discretion to issue a stay and abeyance order, creating an exception to the requirement that exhaustion occur before federal filing.][3] This flexibility serves important interests in allowing federal courts to encourage exhaustion while not permanently depriving petitioners of federal review rights through the operation of AEDPA's rigid timeline.

The foundational principle governing stay and abeyance stems from Supreme Court recognition that AEDPA's twin purposes are encouraging finality in criminal judgments and favoring resolution of habeas claims in state court before resort to federal review. [Rhines established that stay and abeyance should be available only in limited circumstances because granting a stay effectively excuses a petitioner's failure to present his claims first to the state courts.][3] The Court articulated a multi-factor test requiring that a district court grant a stay of federal habeas proceedings only where three criteria are satisfied: (1) the petitioner had good cause for his failure to exhaust claims first in state court, (2) the unexhausted claims are potentially meritorious, and (3) there is no indication that the petitioner engaged in intentionally dilatory litigation tactics.

[Stay and abeyance should be available only when the district court determines there was good cause for the petitioner's failure to exhaust his claims, and even if good cause existed, the district court would abuse its discretion if it granted a stay when the unexhausted claims are plainly meritless.][3] The "good cause" requirement examines whether the petitioner's failure to raise claims in state court was justifiable, examining factors such as whether the petitioner was represented by counsel, whether counsel's performance was adequate, and whether circumstances beyond the petitioner's control prevented earlier exhaustion. The "potentially meritorious" requirement ensures that the federal court does not spend resources staying proceedings for claims that are frivolous, which would undermine AEDPA's efficiency objectives. The "no intentional dilatory tactics" requirement prevents petitioners from strategically fragmenting their claims across multiple filings to circumvent AEDPA's timeline requirements.

The Ninth Circuit has recently applied these *Rhines* criteria in *Doerr v. Shinn*, a 2025 decision granting stay and abeyance in the context of ineffective assistance claims. [The United States Court of Appeals for the Ninth Circuit ruled that Eugene Allen Doerr satisfied the criteria set forth in *Rhines v. Weber* for granting a stay and abeyance of his federal habeas petition to allow exhaustion of his claims in state court without running afoul of the one-year statute of limitations established by the Antiterrorism and Effective Death Penalty Act of 1996.][14] The court determined that Doerr met all three *Rhines* criteria for his postconviction petition claim of ineffective assistance at sentencing. Doerr had good cause because his state postconviction counsel had been ineffective in failing to argue that trial counsel provided ineffective assistance during sentencing-a

quintessential Martinez scenario. The court found the claim potentially meritorious because the district court had already issued a certificate of appealability, which applies a higher standard than the Rhines "plainly meritless" threshold. And there was no evidence of intentional dilatory tactics, as Doerr had diligently pursued his claims through both state and federal proceedings.

[A mixed petition should not be stayed indefinitely, though generally a prisoner's "principal interest . . . is in obtaining speedy federal relief on his claims."][3] Federal courts must structure stays to be time-limited, preventing federal habeas proceedings from languishing indefinitely while state proceedings meander through the system. Practitioners should expect district courts to impose strict deadlines for returning to state court and exhausting claims, with the consequence that failure to meet such deadlines will result in dismissal of the federal petition or forfeiture of the unexhausted claims.

The Ineffective Assistance of Counsel Standard: Strickland and Its Ninth Circuit Application

The ineffective assistance of counsel claim represents one of the most frequently raised habeas grounds, stemming from the Sixth Amendment right to counsel. [When a convicted defendant complains of the ineffectiveness of counsel's assistance, the defendant must show that counsel's representation fell below an objective standard of reasonableness, which is the Strickland standard.][39] The Supreme Court in *Strickland v. Washington* established a two-part framework requiring petitioners to demonstrate both that counsel's performance was objectively deficient and that this deficient performance prejudiced the defense.

[The Strickland standard requires a showing of both objectively deficient performance and prejudice, with the legal test for ineffective assistance of counsel being the same whether at trial, on appeal, or in collateral proceedings.][39] The deficient performance prong examines whether counsel's conduct fell below an objective standard of reasonableness in light of all circumstances, with courts instructed to afford counsel a presumption of competence and avoid hindsight bias when evaluating trial strategy decisions. [In *Strickland*, the Supreme Court declined to provide "specific guidelines" or to articulate "particular requirements" for what constitutes effective assistance under the Sixth Amendment, instead concluding it was sufficient to operate by reference only to the notion of "reasonableness under prevailing professional norms."][39]

The prejudice prong requires showing that counsel's deficient performance was so serious as to undermine confidence in the outcome of the trial. [Although we have discussed the performance component of the ineffectiveness claim prior to the prejudice component, there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the claim.][39] The Supreme Court has stated that "the likelihood of a different result must be substantial, not just conceivable," establishing a higher bar than simple "more likely than not" causation. On habeas review, [the Supreme Court emphasized that the AEDPA standard was "meant to be" "difficult to meet," and the Ninth Circuit had erred by "explicitly conduct[ing] a de novo review" rather than determining whether the state court's decision was unreasonable under then-current law.][30]

The Ninth Circuit has extended *Strickland* to sentencing proceedings in both capital and non-capital cases. [*Strickland v. Washington*, 466 U.S. 668 (1984), governs claims for ineffective assistance of counsel in noncapital sentencing proceedings.][42] The Supreme Court in *Glover v. United States* explicitly applied *Strickland* to noncapital sentencing proceedings, holding that even an increase in sentence of a few months could constitute *Strickland* prejudice. [In *Glover*, the Supreme Court held that there exists a right to counsel during sentencing in noncapital cases, and even though sentencing does not concern the defendant's guilt or innocence, ineffective assistance of counsel during a sentencing hearing can result in *Strickland* prejudice

because "any amount of [additional] jail time has Sixth Amendment significance.]]][42]

Deferential Review Under AEDPA § 2254(d): The "Contrary To" and "Unreasonable Application" Standards

AEDPA fundamentally altered the standard of review for habeas petitions by establishing a highly deferential framework that substantially limits when federal courts may grant relief based on state court decisions. [28 U.S.C. § 2254(d) provides that an application for a writ of habeas corpus may not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.]]][27] These provisions create what scholars and practitioners refer to as the "AEDPA bar," which prevents federal courts from granting relief even when they believe the state court was incorrect if the state court's decision does not exceed the thresholds established by § 2254(d).

The Supreme Court in *Harrington v. Richter* clarified that § 2254(d) deference applies even to unexplained state court summary dispositions, a holding that dramatically increased the § 2254(d) bar's restrictiveness. [The Supreme Court held that § 2254(d) does not require a state court to give reasons before its decision can be deemed to have been 'adjudicated on the merits.']] [When a federal claim has been presented to a state court and the state court has denied relief, it may be presumed that the state court adjudicated the claim on the merits in the absence of any indication or state-law procedural principles to the contrary.]]][30] This presumption creates a strong inference that even silent state court denials constitute adjudications on the merits triggering AEDPA deference, severely limiting federal review of such orders.

The "contrary to" prong of § 2254(d) applies when state court decisions conflict with Supreme Court precedent on a pure question of law. [One common interpretation viewed Section 2254(d)'s three clauses as effectively establishing appellate standards of review-with the "contrary to" clause governing pure questions of law, the "unreasonable application" clause governing mixed questions, and paragraph (d)(2) governing pure questions of fact.]]][27] A state court decision is "contrary to" clearly established federal law when it reaches a conclusion opposite to that reached by the Supreme Court on a question of law, or when it contradicts a Supreme Court case by addressing a materially different set of facts. However, the Supreme Court has imposed a high bar for finding decisions contrary to established law, requiring that the Supreme Court's precedent actually establish the rule in question rather than merely suggest it in dicta or address only superficially related issues.

The "unreasonable application" prong applies when a state court applies Supreme Court precedent to the facts in a manner that no reasonable jurist could endorse. [To overcome Section 2254(d), a prisoner must prove the state court committed some "qualifying error"-such errors must be of the right type, be of sufficient severity, and have some potential effect on the state court's decision.]]][27] The Supreme Court has clarified that this requires demonstrating that the state court made a clear error of law or factual determination, not merely that the state court was wrong or that the petitioner would have preferred a different application. [The court noted that under circuit precedent, it must also consider reasons that "could have supported" the state court's decision and ask whether they were similarly unreasonable-even if those hypothesized reasons in fact played no role in the state court's decision.]]][27]

The Ninth Circuit has grappled with the proper scope of hypothetical reasoning under § 2254(d). [When a district court applies Section 2254(d)'s three clauses and the "arguments or theories [that] supported" the state

court's decision are considered, the court concludes that "fairminded jurists" would unanimously agree that this rationale was inconsistent with clearly established federal law.]] [27] However, courts must still consider whether alternative rationales "could have supported" the state court's decision, and if any such rationale exists and is not unreasonable under AEDPA standards, relief is foreclosed. This "hypothetical reasoning" approach has generated substantial controversy among practitioners and commentators, with concerns that it permits federal courts to construct possible justifications for state court decisions that no jurist actually articulated.

Immigration Habeas: Specialized Jurisdiction and the REAL ID Act Framework

Federal habeas corpus relief for immigration matters presents a distinct legal landscape from criminal habeas, governed by the intersection of general habeas statutes and immigration-specific provisions. [Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, as confirmed in *Rumsfeld v. Padilla* and 28 U.S.C. § 2241(a).]] [1] However, for immigration cases, Congress substantially altered the framework through the REAL ID Act of 2005, which established judicial review of removal orders through petitions for review filed in the courts of appeals rather than through district court habeas petitions.

[The REAL ID Act repeals general habeas corpus jurisdiction over orders of removal, but provides the circuit courts jurisdiction over "questions of law."]] [46] This shift represented an intentional congressional decision to concentrate immigration judicial review in the appellate courts rather than permit parallel district court habeas review. However, the Supreme Court's decision in *INS v. St. Cyr* recognized that the Suspension Clause of the Constitution protects habeas review for questions of pure law, and Congress therefore could not completely eliminate habeas jurisdiction without raising serious constitutional concerns. [Congress was careful to tailor its legislation to the constitutional requirements of the Suspension Clause, as announced by *St. Cyr*.]] [46]

The consequence is that district courts retain habeas jurisdiction over immigration matters in limited circumstances: for immigration detainees not yet subject to final removal orders (such as those in § 1226(a) detention pending removal determination), for challenges to conditions of immigration detention, and for pure questions of law arising from removal orders. [District courts retain habeas jurisdiction under § 2241 for immigration detainees in custody but not subject to final removal orders, such as those in § 1226(a) detention pending determination of removability.]] [60] However, once a final removal order has been issued, the appropriate vehicle for judicial review becomes the petition for review filed in the courts of appeals, not the habeas petition in district court.

Bond hearings in immigration cases have generated significant recent habeas jurisprudence. [The Supreme Court further expounded upon comity concerns and explained why the ability to vindicate constitutional claims in state court supports abstention, noting that if a federal court enjoins state proceedings without giving the state court an opportunity to consider a plaintiff's constitutional claims, that intervention can "be interpreted as reflecting negatively upon the state court's ability to enforce constitutional principles."]] [50] The Supreme Court in *Jennings v. Rodriguez* held that the statute does not provide a statutory right to bond hearings for all immigration detainees but established that due process may require additional bond hearings in cases of prolonged detention. [The Supreme Court further expounded upon comity concerns and "explained why the ability to vindicate constitutional claims in state court supports abstention: if a federal court enjoins state proceedings without giving the state court an opportunity to consider a plaintiff's constitutional claims, that intervention can 'be interpreted as reflecting negatively upon the state court's ability to enforce constitutional principles.'"]] [50] However, the Ninth Circuit has taken a different approach than some sister circuits in addressing due process claims by immigration detainees.

[Rodriguez Diaz argued that his continued detention was unconstitutional because under the Due Process Clause of the Fifth Amendment, he is entitled to a second bond hearing at which the government bears the burden of proof by clear and convincing evidence.]]57] The Ninth Circuit panel ultimately held that § 1226(a)'s procedures satisfy due process, both facially and as applied to Rodriguez Diaz, rejecting the proposition that prolonged detention automatically triggers heightened procedural protections. This holding places the Ninth Circuit in a circuit split with the Third and Fourth Circuits, which have recognized due process rights to additional bond hearings following prolonged detention.

Capital Habeas Cases: Specialized Procedures Under Chapter 154

Capital habeas cases are governed by specialized procedures established in Chapter 154 of Title 28, which create both opportunities for expedited review and stringent requirements for eligible states. [Title 28, chapter 154 of the United States Code ("Chapter 154") permits the "fast-tracking" of federal habeas cases for capital prisoners from states that offer competent counsel to indigent capital prisoners during state postconviction proceedings.]]5] The fast-tracking provisions substantially alter the timing requirements that apply in capital cases, shortening the period for filing federal petitions from one year to six months and requiring federal courts to complete review on an accelerated timeline.

[For a state to "opt in" to Chapter 154, it must request and receive certification from the Attorney General that it "has established a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners who have been sentenced to death.]]5] This certification process has itself generated litigation, with defense organizations challenging the Attorney General's certification criteria as arbitrary and capricious. [The district court sustained most of the Defender Organizations' challenges to the Final Regulations and found the Final Regulations arbitrary or capricious in several respects.]]5]

The procedural consequences of Chapter 154 certification are significant. [If a state can avail itself of Chapter 154's "fast-tracking" provisions, it must request and receive certification from the Attorney General before it may seek to invoke Chapter 154 in a capital prisoner's federal habeas case.]]5] Once certified, a state may invoke the accelerated timeline, which shortens the statute of limitations and requires federal courts to prioritize capital cases and complete review within specific time periods. [The federal courts must give priority status to the habeas case and resolve it within the time periods specified by Chapter 154.]]5] Additionally, § 2264 limits the scope of federal review to claims that have been raised and decided on the merits in state court, unless the failure to raise the claim properly was due to the capital defendant's ineffective assistance of counsel, a substantial claim of actual innocence, or a new rule of constitutional law.

California has developed its own capital habeas procedures under California Penal Code § 1509(f), which requires that the superior court conduct capital habeas review proceedings "as expeditiously as possible, consistent with a fair adjudication." [The panel concluded that "the state's promise is that the value of Redd's entitlement to appointed habeas counsel ha[d] significantly diminished over the many years he ha[d] been waiting" for counsel.]]44] The Ninth Circuit has recognized that California's promises regarding expedited habeas review have not been fulfilled in practice, with some capital defendants waiting decades for counsel appointments to state habeas proceedings, which in turn delays federal habeas review.

Conditions of Confinement: The Core Habeas Limitation

The Ninth Circuit has consistently held that habeas corpus is limited to attacks on the legality or duration of confinement and does not extend to challenges to conditions of confinement. [The Ninth Circuit has long held

that the "the writ of habeas corpus is limited to attacks upon the legality or duration of confinement" and does not cover claims based on allegations "that the terms and conditions of . . . incarceration constitute cruel and unusual punishment."]]31] This limitation has been repeatedly reaffirmed in recent decisions, including *Pinson v. Carvajal*, which held that prisoners challenging COVID-19-related prison conditions could not proceed through habeas petitions even where release was the practical remedy needed to address the constitutional violation.

[The panel was asked to decide whether these sorts of claims—that prison officials violated prisoners' rights to Eighth Amendment and sought release from custody.]]31] The court concluded that the nature of the claim, not the remedy sought, determines whether habeas lies. Even if a prisoner argues that no conditions of confinement could render continued imprisonment constitutional and therefore release is the only effective remedy, habeas jurisdiction does not lie if the underlying claim challenges conditions rather than the legality or duration of the sentence itself. [By collapsing the habeas analysis into a simple inquiry of the requested relief, Petitioners, and the authority they cite, fail to account for the historic purpose of the writ and misapprehend the relationship between the nature of a claim and its requested relief.]]31]

The historic core of habeas corpus encompasses challenges to whether the defendant was lawfully convicted, whether the sentence imposed was authorized by law, and whether the duration of confinement violates constitutional or statutory constraints. Habeas relief can issue ordering release from custody, resentencing, or a new trial. However, habeas does not provide the vehicle for challenging prison policies, security classifications, good-time credit denials (except where they affect release eligibility), or other matters relating to how the sentence is executed rather than whether it was lawfully imposed. [The proper way to seek review" of a decision by the Parole Commission "is by a petition for a writ of habeas corpus under 28 U.S.C. § 2241."]]31]

Younger Abstention and Federal Habeas: The Inapplicability of Abstention Doctrine

Federal courts have occasionally invoked the Younger abstention doctrine to dismiss habeas petitions, based on concerns about federal court interference with ongoing state court proceedings. However, the Ninth Circuit has recently clarified that Younger abstention is generally inapplicable to habeas petitions, particularly where the habeas petitioner seeks to raise federal constitutional claims that the state court proceedings do not adequately address. [The U.S. Court of Appeals for the Ninth Circuit held that the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971), is inapplicable where a petitioner moved for a stay of his 28 U.S.C. § 2254 petition for writ of habeas corpus.]]50]

[Younger abstention applies to state criminal prosecutions as well as civil proceedings that are quasi-criminal (such as the civil habeas proceedings challenging the validity of a criminal judgment) and proceedings that "implicate a State's interest in enforcing the orders and judgments of its courts."]]50] However, for Younger abstention to be appropriate, four conditions must be satisfied: (1) there is an ongoing state judicial proceeding, (2) the proceeding implicates important state interests, (3) there is an adequate opportunity in the state proceedings to raise constitutional challenges, and (4) the requested relief seeks to enjoin or has the practical effect of enjoining the ongoing state judicial proceeding. [Younger abstention is appropriate when: (1) there is "an ongoing state judicial proceeding"; (2) the proceeding "implicate[s] important state interests"; (3) there is "an adequate opportunity in the state proceedings to raise constitutional challenges"; and (4) the requested relief seeks to enjoin or has the practical effect of enjoining the ongoing state judicial proceeding.]]50]

The Ninth Circuit has held that Younger abstention is not appropriate where the issues raised in a habeas

petition are distinct from the underlying state criminal prosecution and would not interfere with it. [Younger abstention is not appropriate in this case because the issues raised in the bail appeal are distinct from the underlying criminal prosecution and would not interfere with it.]]50] Additionally, the court has identified an "extraordinary circumstances exception" to Younger abstention where the federal court's intervention is necessary to prevent irreparable injury, such as prolonged pretrial detention without adequate bail hearings. [For all the foregoing reasons, we conclude that Younger abstention does not apply in this case.]]50]

Teague Retroactivity: The Prohibition on New Constitutional Rules in Habeas

The *Teague v. Lane* doctrine imposes a substantial limitation on federal habeas review by generally prohibiting federal courts from announcing or applying new constitutional rules of criminal procedure to cases on collateral review. [Teague v. Lane generally precludes the retroactive application of new constitutional rules of criminal procedure to collateral review of criminal convictions.]]40] Under *Teague*, a new rule is one that was not dictated by precedent existing at the time the defendant's conviction became final, and such new rules do not apply retroactively on habeas corpus review absent narrow exceptions.

[Griffith v. Kentucky held that new constitutional rules of criminal procedure always apply retroactively to cases on direct review, whereas under the doctrine announced in *Teague v. Lane*, such new rules do not apply retroactively to cases on collateral review.]]40] This distinction means that constitutional rules announced after a conviction becomes final generally cannot be applied to overturn that conviction on federal habeas review, even if the new rule provides greater protections or more favorable treatment for criminal defendants. The rationale reflects concerns about finality, comity, and the limited scope of habeas review.

Teague contains two narrow exceptions to the rule against retroactivity. [Justice Harlan identified two exceptions to the general rule that new rules do not apply retroactively to state prisoners seeking federal habeas review.]]40] The first exception applies to substantive rules of criminal law that place certain conduct beyond the criminal law-making authority to proscribe—for example, if the Supreme Court were to rule that certain conduct cannot constitute a crime. The second exception applies to procedures that are "implicit in the concept of ordered liberty"—fundamental procedures so essential to the integrity of the criminal process that they must be applied retroactively. However, these exceptions are narrowly construed, and most new constitutional rules fail to qualify.

The Ninth Circuit reviews *Teague* questions de novo, as legal determinations rather than factual matters. [We review de novo the legal question whether Petitioner's claim is barred by *Teague*.]]32] This means that where state courts have rejected habeas claims as barred by *Teague*, federal courts do not defer to those determinations but instead independently analyze whether a claim seeks to apply a new rule that would be barred by *Teague*. However, once the Ninth Circuit identifies a claim as *Teague*-barred, it generally will not consider the underlying merits, as doing so would effectively apply the new rule to the habeas petitioner.

Conclusion: Navigating the Restrictive Habeas Landscape in the Ninth Circuit

Federal habeas corpus law in the Ninth Circuit operates within a statutory and constitutional framework that substantially limits federal court review of state criminal convictions while maintaining a narrow gateway for cases involving fundamental constitutional violations. The interaction of multiple restrictive doctrines—AEDPA's statute of limitations and deferential review standards, the exhaustion requirement, procedural default doctrine, and limitations on conditions-of-confinement claims—creates a landscape where most habeas petitions fail on procedural grounds before courts reach the merits of constitutional claims. The Ninth Circuit's recent decisions in cases such as *Doerr v. Shinn* and the court's engagement with stay and

abeyance doctrine provide some flexibility within this restrictive framework, permitting petitioners to return to state court to exhaust claims without permanently losing federal review rights.

For practitioners seeking federal habeas relief in the Ninth Circuit, success requires meticulous attention to procedural requirements beginning at the state court stage. The one-year statute of limitations must be carefully tracked, with attention to the ninety-day federal certiorari period as the triggering event for AEDPA's clock. Exhaustion of state remedies must be complete, though stay and abeyance provides a safety valve for mixed petitions. Claims of ineffective assistance of counsel remain central to federal habeas practice but are now constrained by the Ramirez limitation on out-of-court-record evidence, requiring practitioners to develop state court records fully before any federal filing. The stringent standards of § 2254(d) deference require petitioners to identify clearly established Supreme Court precedent and demonstrate that state court decisions are not merely wrong but unreasonable in their application of law to facts.

The Ninth Circuit's jurisprudence continues to develop, particularly regarding immigration habeas and the interaction of immigration detention statutes with constitutional due process requirements. Capital habeas remains a specialized area with accelerated timelines and distinct scope limitations. For all categories of habeas petitions, the distinction between subject-matter jurisdiction (which cannot be waived) and procedural compliance (which courts will enforce strictly) remains critical. Federal habeas corpus remains available as the ultimate safeguard against constitutional violations in criminal proceedings, but accessing that remedy requires sophisticated understanding of the complex procedural landscape the Ninth Circuit has inherited from AEDPA and has continued to shape through interpretation and application.

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