

BOISE, MONDAY, FEBRUARY 5, 2024 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 50336

THOMAS EUGENE CREECH,)	
)	
Petitioner-Appellant,)	
)	
v.)	(Capital Case)
)	
STATE OF IDAHO,)	
)	
Respondent.)	
_____)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Jason D. Scott, District Judge.

Erik R. Lehtinen, Interim State Appellate Public Defender, attorney for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, attorney for Respondent.

This appeal arises from a district court decision that summarily dismissed Thomas Creech’s (“Creech”) petition for post-conviction relief as untimely. Creech, who has been sentenced to death, petitioned the district court to hear his ineffective assistance of counsel (“IAC”) claim after the United States Supreme Court decided *Shinn v. Ramirez*, 596 U.S. 366 (2022). In *Shinn*, the Supreme Court held that federal courts are barred from hearing evidence in IAC claims that has not already been presented in state court. Creech argues *Shinn* represents a triggering event that restarts the forty-two day period in which prisoners must file post-conviction claims after judgment under Idaho Code section 19-2719. Creech argues *Shinn* is a triggering event because before that, state courts preferred to have federal courts hear habeas claims. Creech argues that if this Court dismisses his claim, he will be denied the opportunity to have his IAC claims heard in any court post-*Shinn*.

Creech acknowledges that his IAC claim is untimely, but argues that the untimeliness should be excused because it was caused by the ineffectiveness of his initial post-conviction counsel. He argues that Idaho’s Constitution, Idaho’s Criminal Rule 44.2(1), and his status as a capital prisoner guarantee his right to effective trial and post-conviction counsel. Creech asks that this Court remand his case to the district court to consider his case on the merits under the heightened protections he says exist under the Idaho Constitution for IAC claims.