NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted September 29, 2025*
Decided February 13, 2026

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2962

ARTURO SOLIS,
Petitioner-Appellant,

v.

STEVEN MERENDINO, Warden,
Respondent-Appellee.

Appeal from the United States District Court for the Southern District of Indiana, Terre Haute Division.

No. 2:21-cv-00462-JPH-MJD

James Patrick Hanlon,
Judge.

O R D E R

Arturo Solis, a federal prisoner, petitioned for a writ of habeas corpus under 28 U.S.C. § 2241, arguing that the Bureau of Prisons was violating the Ex Post Facto Clause of the Constitution by attempting to collect his criminal fine contrary to the law in effect when he committed his crime. The district court denied the petition, reasoning

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

that it was proper to apply the law in effect at the time of Solis's sentencing, and he therefore remains liable for the fine. We affirm.

In February 1995, while serving a state sentence in Texas, Solis detonated a makeshift bomb. He was subsequently convicted of possessing an unregistered and unidentifiable explosive device, 26 U.S.C. § 5861(d), (i), and possessing a firearm as a felon, 18 U.S.C. § 922(g). In July 1996, he was sentenced to 137 months' imprisonment and required to pay an $1,800 fine. The fine was to be paid "immediately," and the district court waived the interest. 18 U.S.C. § 3612(f)(3). The court ordered Solis's sentence to run consecutively to his existing state sentence. Thus Solis did not enter federal custody until 2017, over 20 years after the sentence was imposed. At that point, the Bureau attempted to collect the fine through the Inmate Financial Responsibility Program. Because Solis refused to participate in the Program, the Bureau restricted some of his privileges.

According to Solis, his liability to pay the fine had lapsed under the terms of a statute in effect when he committed the crime. Whether a defendant remains liable to pay a fine or restitution is determined by 18 U.S.C. § 3613(b), which was amended between Solis's offense and sentencing. At the time of his offense, in February 1995, "liability to pay a fine expire[d] twenty years after the entry of the judgment." 18 U.S.C. § 3613(b) (1984). But in April 1996, before Solis was sentenced, the Mandatory Victim Restitution Act, Pub. L. No. 104-132, § 207(c)(3), 110 Stat. 1214, 1238 ("MVRA"), amended that subsection, so it then provided that "[t]he liability to pay a fine shall terminate the later of 20 years from the entry of judgment or 20 years after the release from imprisonment of the person fined." 18 U.S.C. § 3613(b) (1996).

In 2021, Solis petitioned for a writ of habeas corpus under 28 U.S.C. § 2241, arguing that the Bureau did not have the authority to collect his fine. He contended that his liability to pay the fine had expired under the pre-MVRA version of § 3613(b), and that retroactive application of the amended version would violate the Ex Post Facto Clause of the Constitution and the general savings statute, 1 U.S.C. § 109. After the warden responded, Solis raised a new argument in his reply: The original version of § 3613 must be applied because his criminal judgment referred to the Sentencing Reform Act of 1984, which first enacted § 3613.

The district court denied the petition, reasoning that the MVRA did not increase Solis's punishment and instead only lengthened the term of his liability. The court also likened § 3613(b) to a statute of limitations: The retroactive application of a statute of limitations that was extended when the defendant was still liable does not violate the

Ex Post Facto Clause, so neither does retroactive application of § 3613(b) as amended. The court further concluded that the savings statute applies only when a statute removes a penalty, and that it does not preserve a more lenient statute. Finally, the court alluded to the argument Solis raised in his reply but deemed it waived.

After Solis filed his notice of appeal, he moved in the district court to proceed in forma pauperis on appeal. The court granted that motion, excusing Solis from paying the fee in advance, though it clarified that Solis must pay the entire fee "when feasible."

Then, after briefing from the parties, we suspended proceedings pending the Supreme Court's decision in *Ellingburg v. United States*, No. 24-482, 2026 WL 135982 (U.S. Jan. 20, 2026). The petitioner there, who was sentenced to pay restitution before the MVRA was enacted, contended that restitution is punishment for the purpose of the Ex Post Facto Clause. The government agreed with the petitioner on that point but contended that retroactive application of § 3613(b) would not offend the Ex Post Facto Clause because extending the time frame to collect restitution was analogous to the extension of an unexpired statute of limitations. The Court agreed with the parties that restitution is punishment, *Ellingburg*, 2026 WL 135982, at *3, an issue not contested in this case. But the Court did not address whether the extension of the time frame to collect under § 3613(b) is analogous to a statute of limitations, *id.* at *4. *Ellingburg* thus does not inform our decision here.

On appeal, Solis maintains that retroactive application of the amended version of § 3613(b) violates the Ex Post Facto Clause and that the general savings statute requires that the older version of § 3613(b) set the term of his liability. Solis further contends that the district judge was biased against him, should have held an evidentiary hearing, and should not have deemed as waived the theory he introduced in his reply. Solis also disputes his obligation to pay the appellate filing fee.

We start with Solis's assertion that his liability to pay his fine has expired under the pre-MVRA version of § 3613(b) and that the Ex Post Facto Clause prohibits extending his liability under the amended version of § 3613(b). The Ex Post Facto Clause prohibits retroactive punishment. The retroactive application of a law can violate the Clause if it would have the effect of increasing the punishment or inflicting a punishment when the party was not liable. *See Peugh v. United States*, 569 U.S. 530, 538–39 (2013); *Stogner v. California*, 539 U.S. 607, 618–19 (2003). But not all laws that disadvantage a defendant violate the Constitution. For example, the retroactive application of a law extending a statute of limitations period would be constitutional if the prior limitations period had not yet expired when the law was enacted. *See United*

States v. Gibson, 490 F.3d 604, 609 (7th Cir. 2007). But application of that statute would offend the Clause if the law purported to extend a limitations period that already had expired. *See Stogner*, 539 U.S. at 618–19. In *Stogner*, the Supreme Court held that laws extending an expired limitations period violate the Clause because they punish a defendant when he could no longer have been held liable. *Id.* at 613–14. The Court distinguished these laws from laws extending an unexpired period because the defendant would still be liable when the law was enacted. *Id.* at 613–14, 616–18; *see also Gibson* 490 F.3d at 609.

Our sister circuits have split on whether retroactive application of § 3613(b) is constitutional under this framework. *Compare United States v. Weinlein*, 109 F.4th 91, 99–104 (2d Cir. 2024), *cert. denied*, 145 S. Ct. 1425 (2025), *United States v. Rosello*, 737 F. App'x 907, 909 (11th Cir. 2018), *United States v. Blackwell*, 852 F.3d 1164, 1166 (9th Cir. 2017), *United States v. McGuire*, 636 F. App'x 445, 447 (10th Cir. 2016), *and United States v. Phillips*, 303 F.3d 548, 551 (5th Cir. 2002) (finding no constitutional violation), *with United States v. Norwood*, 49 F.4th 189, 217–20 (3d Cir. 2022) (finding constitutional violation). The Third Circuit in *Norwood* concluded that holding a defendant liable for restitution under the amended version of § 3613(b) would violate the Ex Post Facto Clause. 49 F.4th at 217–20. The *Norwood* court considered the rule about unexpired limitations periods but determined that it did not apply because § 3613(b) is not a statute of limitations. *Id.* at 217–18. The court also reasoned that the law increased Norwood's punishment because the government would be able to collect restitution over a longer period and therefore potentially collect more money. *Id.* at 217–19.

Although we are mindful that the period of liability to pay a fine is not the same as a statute of limitations, the framework in *Stogner* applies with equal force to this statute and compels the same result. The MVRA did not inflict a punishment for which Solis could not otherwise be held liable; no liability period had expired by the time the MVRA was enacted. And the MVRA did not increase his punishment, which was the imposition and amount of the fine. The possibility that the government will collect more of the fine does not affect the amount Solis owes, nor is his fine subject to any interest that might be considered an increase. We thus conclude that applying retroactively the extended term of liability in § 3613(b) as amended by the MVRA does not violate the Ex Post Facto Clause.

The general savings statute, 1 U.S.C. § 109, likewise does not preserve the older version of § 3613(b), as Solis contends. The savings statute generally forbids a court

from applying an ameliorative sentencing law that repeals or amends a harsher one in effect when the crime was committed. *United States v. Bell*, 624 F.3d 803, 814 (7th Cir. 2010) (citing *Warden, Lewisburg Penitentiary v. Marrero,* 417 U.S. 653, 661 (1974)); *see also Dorsey v. United States*, 567 U.S. 260, 272 (2012). But Solis asks us to adopt the inverse position: The savings statute also requires a court to apply a more lenient sentencing law that was replaced by a harsher one. He cites no authority interpreting the statute this way, nor are we aware of any such authority.

Solis's argument also runs contrary to the language of the savings statute and the Supreme Court's understanding of its purpose. The first clause of the statute reads: "The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide." 1 U.S.C. § 109. The provision of the MVRA in question, by contrast, extends a period of collection and does not "release or extinguish any penalty." Additionally, the Supreme Court has said that the purpose of the savings statute is "to abolish the common-law presumption that the repeal of a criminal statute" requires the dismissal of any criminal case that had not been reviewed by the relevant high court. *Marrero*, 417 U.S. at 660; *see Bell v. Maryland*, 378 U.S. 226, 230 (1964). We do not see how this purpose would be furthered by Solis's interpretation of the savings statute.

Solis insists that the respondent waived any contrary argument about the savings statute by not addressing his theory in the district court. Regardless, the district court could not grant relief based on an erroneous conclusion of law. *Cf. Bernacchi v. First Chicago Ins.*, 52 F.4th 324, 328 (7th Cir. 2022) (district court did not err by dismissing based on rule not raised in defendant's motion to dismiss).

Solis next contends that the district court should have granted him an evidentiary hearing. But Solis's petition presented purely legal issues that could be resolved based on the record, making a hearing unnecessary. *See Santiago v. Streeval*, 36 F.4th 700, 711 (7th Cir. 2022).

Solis then argues that the district judge was biased against him. As evidence of bias, Solis relies primarily on the judge's adverse rulings. But adverse rulings alone are insufficient to establish bias. *Owens v. Evans*, 878 F.3d 559, 566 (7th Cir. 2017). Solis also suggests that the three years it took for the judge to rule on his petition evinces bias. But the judge was actively engaged in the case throughout that period, so we see no indication of bias.

Solis further contends that the district court should have considered his theory about the criminal judgment's reference to the Sentencing Reform Act of 1984. But Solis waived this argument by raising it for the first time in his reply, *see Bradley v. Village of University Park*, 59 F.4th 887, 897 (7th Cir. 2023), and the district court acted within its discretion not to excuse that waiver.

Finally, Solis argues that because he is indigent, the district court should not have required him to pay a filing fee when granting him leave to file this appeal in forma pauperis. But Solis's indigency does not relieve him of his obligation to pay a filing fee. Rather, proceeding in forma pauperis permits him to file his appeal without paying the fee in advance. *See Thomas v. Zatecky*, 712 F.3d 1004, 1005 (7th Cir. 2013). To the extent Solis argues that he is exempt from the fee because he filed a habeas petition, he is incorrect. Habeas petitions are subject to filing fees, though they are exempt from the Prison Litigation Reform Act's requirement that a prisoner pay a portion of the fee in advance. *Id.*

AFFIRMED