



Dykes v. Lampert

2005 | Cited 0 times | Ninth Circuit | August 4, 2005

NOT FOR PUBLICATION

MEMORANDUM ¹

Argued and Submitted February 10, 2004 - Submission Withdrawn March 2, 2004 - Resubmitted October 19, 2004 Seattle, Washington

Before: D.W. NELSON, KLEINFELD, and FISHER, Circuit Judges.²

We affirm the district court's decision not to grant Timur Dykes' amended petition for a writ of habeas corpus. Because Dykes's amended petition sought relief on a ground "supported by facts that differ in both time and type" from the grounds set forth in his original petition, relation back under Rule 15 is inappropriate. *Felix v. Mayle*, 125 S.Ct. 2562, 2566 (2005). Although the district court permitted amendment of the petition, it denied relief on the merits. We affirm on the alternate ground that the petition is untimely.

The mandate shall issue forthwith.

AFFIRMED.

1. This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

2. This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

