

Peter G. McCabe, Secretary  
Committee on Rules of Practice and  
Procedure  
Administrative Office of the U.S. Courts  
Washington, D.C. 20544

October 2, 2007

07-CR-C

RE: Statute and Rule Changes

Dear Mr. McCabe:

I am interested in making some proposed recommendations on Statute and Rule changes for Habeas corpus cases, concerning, AEDPA's statute of limitations. I am currently in a position where the AEDPA's Statute of Limitations will possibly cause my federal habeas corpus to be untimely and thus, the loss of the federal review of the violation of my federal constitutional rights (See Warfield v. Weber, Civ. 07-5026-KES, Habeas Proceedings). The State Court's doors have been always closed to me and my only possible hope for relief is through the review of my federal habeas corpus. The below are the following proposed recommendations:

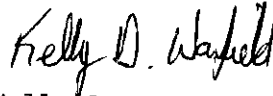
- 1) The one-year statute of limitations under 28 U.S.C 2244(d) should be rescind, as such Statute of limitations violates a persons right to petition government redress of grievances; and/or
- 2) The one-year statute of limitations under 28 U.S.C. 2244(d) tolling provision is vague as what constitutes "other" collateral review and most lay persons would believe that to mean federal habeas, certiorari proceedings (petitions and review) of State Collateral proceedings. I would recommend that "Other" collateral review would also include certiorari in the Supreme Court of State Collateral proceedings or that the Statute specifically state "Other collateral review with respect to the pertinent judgement or claim is pending in State Courts." This would allow a lay person to more easily determine that federal review by habeas corpus or certiorari proceedings reviewing State collateral proceedings are not tollable. I would also recommend that all federal habeas proceedings in which were deem untimely due to this vague statute, be reopened in light of the clarification of the vague statute, as the untimeliness of the federal habeas filing were caused by the vague statute in which congress drafted. The untimeliness of the federal habeas filing(s) can be attributed to congress's vagueness in the tolling statute, if the statute was not vague as to what "other" proceedings encompassed, most people petition for habeas corpus would not been untimely, as they would have understood what actually tolled the statute of limitation and would have most likely proceed to federal habeas proceedings with the clarified knowledge that certiorari review of State collateral proceedings did not toll the Statute of Limitation and there would be no need to wait for the certiorari proceeding to start and conclude.
- 3) I would recommend that a Statute and Rule be draft so a federal court would be able to extend the time to file a federal habeas petition, without first filing a protective habeas petition, similar what the U.S. Supreme Court does for an application for extension to file certiorari petitions, as there could be unseen and seen impediments to filing a federal habeas petition and so people could move for extensions to file their federal habeas

so they would not loss their right to redress on their federal habeas review of the violations of their federal constitutional rights. I would recommend retroapplication of this statute and rule to the enactment of the AEDPA's statute of limitations.

These are my proposed recommendations for statutes and rules proposals, please forward this onto congress, the senate, the president, and et cetera, for consideration.

I thank you for your assistance in this matter and look forward from hearing from you in the near future.

Sincerely,



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