

§ 2263. Filing of habeas corpus application; time requirements; tolling rules

(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

(b) The time requirements established by subsection (a) shall be tolled—

(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

(3) during an additional period not to exceed 30 days, if—

(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

(Added Pub. L. 104-132, title I, §107(a), Apr. 24, 1996, 110 Stat. 1223.)

§ 2264. Scope of Federal review; district court adjudications

(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

(1) the result of State action in violation of the Constitution or laws of the United States;

(2) the result of the Supreme Court's recognition of a new Federal right that is made retroactively applicable; or

(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

(Added Pub. L. 104-132, title I, §107(a), Apr. 24, 1996, 110 Stat. 1223.)

§ 2265. Certification and judicial review

(a) CERTIFICATION.—

(1) IN GENERAL.—If requested by an appropriate State official, the Attorney General of the United States shall determine—

(A) whether the State has established a mechanism for the appointment, compensa-

tion, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners who have been sentenced to death;

(B) the date on which the mechanism described in subparagraph (A) was established; and

(C) whether the State provides standards of competency for the appointment of counsel in proceedings described in subparagraph (A).

(2) EFFECTIVE DATE.—The date the mechanism described in paragraph (1)(A) was established shall be the effective date of the certification under this subsection.

(3) ONLY EXPRESS REQUIREMENTS.—There are no requirements for certification or for application of this chapter other than those expressly stated in this chapter.

(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

(c) REVIEW OF CERTIFICATION.—

(1) IN GENERAL.—The determination by the Attorney General regarding whether to certify a State under this section is subject to review exclusively as provided under chapter 158 of this title.

(2) VENUE.—The Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over matters under paragraph (1), subject to review by the Supreme Court under section 2350 of this title.

(3) STANDARD OF REVIEW.—The determination by the Attorney General regarding whether to certify a State under this section shall be subject to de novo review.

(Added Pub. L. 109-177, title V, §507(c)(1), Mar. 9, 2006, 120 Stat. 250.)

PRIOR PROVISIONS

A prior section 2265, added Pub. L. 104-132, title I, §107(a), Apr. 24, 1996, 110 Stat. 1223, related to the application of sections 2262, 2263, 2264, and 2266 of this title to State unitary review procedures, prior to repeal by Pub. L. 109-177, title V, §507(c)(1), Mar. 9, 2006, 120 Stat. 250.

EFFECTIVE DATE

Section applicable to cases pending on or after Mar. 9, 2006, with special rule for certain cases pending on that date, see section 507(d) of Pub. L. 109-177, set out as an Effective Date of 2006 Amendment note under section 2251 of this title.

§ 2266. Limitation periods for determining applications and motions

(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 450 days after the date on which the application is filed, or 60 days after the date on which the case is submitted for decision, whichever is earlier.