



## VIRTUAL NON CAPITAL HABEAS CONFERENCE May 13-14, 2021

### AGENDA (all times are EDT)

#### Thursday, May 13, 2021

**11:45 a.m. - 12:00 p.m. Welcome and Introductory Remarks**

**12:00 p.m. - 1:00 p.m. Overview of AEDPA (Beginner)**

**Kimberly Newberry**, Research and Writing Specialist, Capital Habeas Unit, Federal Defender Office for the Northern District of Florida, Tallahassee, FL.

The Anti-Terrorism and Effective Death Penalty Act (AEDPA) erects numerous barriers for prisoners as they seek post-conviction relief from their state convictions and sentences. As a result of this session, beginner habeas advocates will understand the key provisions of the AEDPA and how they affect state prisoners' attempts to obtain review of their convictions. Further detail about specific AEDPA provisions will be provided in the subsequent beginner sessions.

**1:15 p.m. - 2:15 p.m. Timeliness and Relation Back (Beginner)**

**Amelia Bizzaro**, Assistant Chief, Non-Capital Habeas Unit, Federal Defender Office for the District of Nevada, Las Vegas, NV.

**Jonathan Kirshbaum**, Chief, Non-Capital Habeas Unit, Federal Defender Office for the District of Nevada, Las Vegas, NV.

Are your client's petition and/or claims timely? This session for beginner habeas advocates will address the four alternative start dates for the AEDPA's statute of limitations; the law of statutory tolling; and how to argue that claims added after a petition is filed relate back to earlier-field claims.

**2:30 p.m. - 3:30 p.m.      Equitable Tolling (Everyone/Advanced)**

**David Porter**, Assistant Federal Defender, Eastern District of California, Sacramento, CA.

Equitable tolling allows the court to hear your client's claims even if those claims were filed after the expiration of the AEDPA's statute of limitations, if certain conditions are met. This session will review the equitable tolling standard announced by the Supreme Court and how that standard has been applied in the Courts of Appeals. As a result of this session, advocates will know how to evaluate whether their clients qualify for equitable tolling.

**3:45 p.m. - 4:45 p.m.      Habeas Case Update (Everyone/Advanced)**

**Randolph Fiedler**, Assistant Federal Defender, Capital Habeas Unit, Federal Defender Office for the District of Nevada, Las Vegas, NV.

**Stacy Newman**, Assistant Federal Defender, Capital Habeas Unit, Federal Defender Office for the District of Nevada, Las Vegas, NV.

This session will review the recent developments in habeas law from the Supreme Court and the Courts of Appeals.

Friday, May 14, 2021

**1:15 p.m. - 2:15 p.m. Exhaustion and Procedural Default (Beginner/Everyone)**

**Ellen Henak**, Henak Law Office, Milwaukee, WI.

**Rob Henak**, Henak Law Office, Milwaukee, WI.

AEDPA's Section 2254 mentions the exhaustion requirement four times. What is exhaustion and what is actually required? Also, what is a procedural default? What can we do to overcome a default? This session will answer these questions for beginner habeas advocates.

**2:30 p.m. - 3:30 p.m. Litigating Ineffective Assistance of Counsel Claims (Everyone)**

**Eve Brensike Primus**, Yale Kamisar Collegiate Professor of Law and Director of the Public Defender Training Institute, University of Michigan Law School.

Ineffective assistance of counsel claims are at the heart of most habeas petitions. This session will address how to litigate ineffective assistance in all of its different forms, and it will address ways in which you may be able to get around the requirements of *Strickland v. Washington* or argue that those requirements are not as hard to satisfy as the court might think.

**3:45 p.m. - 4:45 p.m. 2241 Petitions for During the Pandemic and Beyond (Everyone)**

**Paresh Patel**, Appellate Chief, Federal Public Defender for the District of Maryland, Greenbelt, MD.

**David J. Carey**, Senior Staff Attorney, ACLU of Ohio, Cleveland, OH.

The first half of this session will provide an overview of the circumstances under which federal prisoners may seek

habeas relief pursuant to AEDPA's Section 2241. The second half of this session will address a hot topic in 2241 litigation: the 2241 petitions that were filed in behalf of federal prisoners seeking release from confinement during the coronavirus pandemic. As a result of this session, participants will gain familiarity with a rarely-used tool in the habeas practitioner's tool belt and will be able to assess whether it could be useful in their own cases.

4:45 p.m.

**Adjournment**