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Pace, John v. DiGuglielmo, David (Supt. of State Correctional Institute at Graterford), et al.

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Docket:03-9627

Term: 04-05

Appealed From: 3rd Circuit Court of Appeals (July 30, 2003)

Oral Argument: Feb. 28, 2005

Opinion Issued: 5-4 for Diguglielmo (Rehnquist-April 27, 2005)

Subject: Habeas corpus, time limits, Antiterrorism & Effective Death Penalty Act of 1996

Question presented: Whether, as this Court reserved in *Artuz v. Bennett*, 531 U.S. 4 (2000), an untimely state post-conviction habeas petition may be "properly filed" under section 2244(d)(2)?

BY MICHELLE EVANS, MEDILL NEWS SERVICE

John Pace, 17, stole a brown-bag lunch from a pedestrian and then beat the stranger to death with a blackjack on Sept. 18, 1985. He pleaded guilty five months later to second-degree murder.

The teen thought by admitting guilt in the death of Randolph Baldwin, he would receive as lenient a sentence as a 10-to-15-year prison term rather than life imprisonment.

Instead, Pace was sentenced to the state's mandatory life imprisonment without the possibility of parole. He also received an additional one-to-two years for possessing an instrument of crime.

Not until later did Pace say he realized he had been given erroneous information from his legal counsel regarding his potential sentence.

Though Pace did not file a direct appeal, he did file a pro se petition under the Pennsylvania Post Conviction Hearing Act, claiming both ineffective assistance from trial counsel and trial court error. The petition for state post-conviction relief was denied in 1992.

In the years following his first request, the Pennsylvania legislature amended the law to include time limits in an effort to prevent the filing of repetitive petitions. The legislation, which took effect Jan. 16, 1996, requires that petitions be filed within one year of the final judgment. For prisoners who had been incarcerated for a number of years, the first petition had to be filed within a year of the effective date of the act.

Approximately 200 individuals are on Pennsylvania's death row and most are seeking post-conviction relief, according to the Pennsylvania Department of Corrections.

On Nov. 27, 1996 -- more than 10 years since he had been sentenced -- Pace filed a second request for collateral relief under the Pennsylvania Post Conviction Relief Act, reiterating the same claims from a decade before.

The Court of Common Pleas denied Pace's request based on the merits of the case rather than making any determination about whether his petition was timely or not. The court ruled that there was no indication Pace was misled by trial counsel, and also found that the "thorough and complete" sentencing detailed in court records indicated that Pace understood the potential penalties.

When Pace appealed his case to the Pennsylvania Superior Court, the court dismissed the request as untimely, citing two state cases where the trial-level court mistakenly acted on an untimely post-conviction relief petition.

Nearly eight months later, the court also denied a request from Pace to reconsider his case under one of the enumerated exceptions to the one-year time limit. He claimed that prison officials had seized legal documents that kept him from filing earlier.

Following the exhaustion of state post-conviction relief, Pace filed a habeas corpus petition, a constitutional challenge to his conviction or sentence, in the U.S. District Court for the Eastern District of Pennsylvania.

Petitions for writ of habeas corpus (Latin for "you have the body") have become America's legal remedy against unconstitutional and unlawful imprisonment. Such petitions are the principal means by which state inmates can obtain federal court review and have been responsible for overturning about 40 percent of state-court death sentences, according to the American Civil Liberties Union.

For years, they also have become a target for critics who say the measure prolongs death-row appeals. In the 1990s, reforming habeas corpus became a popular cause and culminated in the 1996 enactment of the Antiterrorism and Effective Death Penalty Act, which provided, among other things, guidelines requiring habeas corpus petitions to be filed within one year of the final conviction appeal at the state level.

Like the Pennsylvania legislation, already incarcerated prisoners would have one year from the effective date -- in this case April 24, 1996 -- to file the habeas corpus petition. The clock also is paused while a "properly filed" state post-conviction relief petition is pending in the state courts.

Pace filed his habeas corpus petition more than two-and-a-half years after that deadline. He argued he could not have filed the petition within the first year of enactment because the court would have refused to hear it because he had not exhausted his remedies in state court.

The overriding question in Pace's case was whether his untimely state post-conviction, which had been pending in Pennsylvania, would be considered "properly filed" for purposes of the habeas corpus' one-year requirements.

The U.S. District Court ruled that the habeas corpus petition was timely because Pace's state post-conviction relief had effectively paused the one-year deadline. The court pointed to the 5th and 9th circuit courts of appeals, which used the Artuz v. Bennett case to conclude that untimely state post-convictions petitions may be considered "properly filed" for purposes of determining whether the federal court review deadline was met.

In Artuz, the Supreme Court drew the line between conditions to filing an entire petition and a condition to obtaining relief for individual claims asserted within the petition. The Court ruled in 2000 that state post-conviction applications that violate a "condition for filing" are not considered "properly filed," but would be considered sufficiently filed if the application focused on the "condition to obtaining relief" claims.

"The statute contains exceptions that require 'some level of judicial review' to examine the merits of the petition before it can be dismissed as time-barred," the district court said in Pace's ruling. "Therefore, this court sees (the statute) as imposing conditions for obtaining relief and not as an absolute bar to filing a petition...Mr. Pace's second PCRA petition was untimely under Pennsylvania law, yet, the PCRA petition was 'properly filed' for purposes of federal law and tolled AEDPA's statute of limitations."

The 3rd Circuit Court of Appeals unanimously reversed, holding that its most recent decision in Merritt v. Blaine requires that the untimely state post-conviction relief petition not be considered "properly filed."

Not all federal circuits have come to the same conclusion.

While the 3rd and 7th circuits have found that a state-post conviction petition ruled "untimely" by the state courts is never "properly filed" for federal purposes, at least one court – the 9th Circuit Court of Appeals – is in direct conflict.

Pace appealed to the U.S. Supreme Court to resolve this conflict in the circuits.

On Sept. 28, 2004, the Court accepted the case for review and allowed Pace to proceed without court costs.

On April 27, 2005, a divided Court affirmed, holding 5-4 that Pace's federal petition was barred by AEDPA's statute of limitations.

In so holding, Chief Justice William Rehnquist concluded for the majority that Pace was not entitled to either statutory or equitable tolling of the time limit.

In dissent, Justice John Paul Stevens criticized the majority for fostering a situation in which a petition for state postconviction relief "will not be deemed properly filed – no matter how long

the state court has held the petition, how carefully it has reviewed the merits of the petition's claims, or how it has justified its decision."

Justices David Souter, Ruth Bader Ginsburg, and Stephen Breyer joined in the dissent.

The dissenters also predicted that the likely consequence of the Court's decision will be to increase, not reduce, delays in the federal system by encouraging "a flood of protective filings in the federal district courts."

Attorneys:

Attorneys for Petitioner:

Billy H. Nolas Defender Association of Philadelphia (215) 928-0520

The Curtis Center, Suite 545-West

Independence Square West

Philadelphia, PA 19106

Party name: John A. Pace

Attorneys for Respondent:

Ronald Eisenberg Deputy District Attorney (215) 686-5700

1421 Arch Street

Philadelphia, PA 19102

Party name: David DiGuglielmo, Superintendent, State Correctional Institution at Graterford, et al.

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Supreme Court opinion (April 27, 2005)

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2000 Supreme Court opinion in *Artuz v. Bennett*

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