Habeas & Prison Litigation Case Law Update

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HABEAS CORPUS

Supreme Court

Supreme Court rules that Antiterrorism and Effective Death Penalty Act does not repeal Court's authority to entertain original habeas petitions or violate Constitution's Exceptions or Suspension Clauses, but does affect standards governing granting of relief. Petitioner's execution was scheduled for the period May 2-9, 1996. On May 2, 1996, he filed motions with the Eleventh Circuit for stay of execution and for leave to file a second or successive federal habeas corpus petition under 28 U.S.C. § 2254. The court of appeals denied both motions, concluding that petitioner's claims had not been presented in his first habeas petition and that they did not meet the standards of § 106(b)(2) (amending 28 U.S.C. § 2244(b)) of the Antiterrorism and Effective Death Penalty Act (effective April 24, 1996).

Petitioner then filed with the Supreme Court a petition for writ of habeas corpus, for appellate or certiorari review of the Eleventh Circuit's decision, and for stay of execution. On May 3, the Court granted the stay application and petition for certiorari and ordered briefing on "the extent to which the provisions of Title I of the Act apply to a petition for habeas corpus filed in this Court, whether application of the Act suspended the writ of habeas corpus in this case, and whether Title I of the Act, especially § 106(b)(3)(E), constitutes an unconstitutional restriction on the jurisdiction of this Court."

A unanimous Court held that the Act does not deprive it of jurisdiction to entertain original habeas petitions, pursuant to 28 U.S.C. §§ 2241 and 2254, but does impose new conditions on its authority to grant relief. Since it retained jurisdiction over original petitions, the Court said the petitioner did not have a "plausible argument that the Act has deprived this Court of appellate jurisdiction in violation of Article III, § 2" of the U.S. Constitution (granting the Court appellate jurisdiction "with such Exceptions . . . as the Congress shall make"). The Court also ruled that its consideration of original habeas petitions must be informed by the Act's new restrictions on the granting of relief to state prisoners under § 2254. It further held that the added restrictions which the Act places on second habeas petitions do not amount to a "suspension" of the writ contrary to Article I, § 9 of the Constitution.

The Court first considered the "gatekeeping" mechanism established by § 106(b)(3) of the Act (§ 2244(b)(3)(A-E)), which requires application to the court of appeals for leave to file in the district court a second or successive habeas application. Section 106(b)(3)(E) states that the "grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari." The Court noted that while § 106(b)(3)(E) "precludes us from reviewing . . . a judgment on an application for leave to file a second habeas petition in district court, it makes no mention of our authority to hear habeas petitions filed as original matters in this Court." Therefore, because repeal by implication of the Court's habeas power is not favored, "we conclude that Title I of the Act has not repealed our authority to entertain original habeas petitions." This conclusion "obviates one of the constitutional challenges raised," that the Act violates the Exceptions Clause, Article III, § 2, because it deprives the Supreme Court of appellate jurisdiction in cases falling under § 106(b)(3)(E).

With reference to the new requirements imposed by the Act for granting relief under § 2254, the Court observed that § 106(b)(3)'s "gatekeeping" system for second petitions applies only to applications "filed in the district court" and consequently does not apply to the Supreme Court's consideration of habeas petitions. However, § 106(b)(1) and (2) "apply without qualification to any 'second or successive habeas corpus application under section 2254. . . . Whether or not we are bound by these restrictions, they certainly inform our consideration of original habeas petitions."

The Court then determined that the Act does not violate Article I, § 9, Clause 2 (providing that the writ of habeas corpus "shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it"). The Act's requirement that a habeas petitioner obtain leave from the court of appeals to file a second petition in the district court "simply transfers from the district court to the court of appeals a screening function which would previously have been performed by the district court." The Act's codification of some preexisting limits on successive petitions and further restrictions on the availability of relief were within Congress's purview in prescribing "the proper scope of the writ." The new restrictions "constitute a modified res judicata rule, a restraint on what is called in habeas corpus practice 'abuse of the writ'."

Habeas & Prison Litigation Case Law Update is distributed periodically by the Federal Judicial Center to inform judges and other judicial branch personnel of selected federal court decisions interpreting the 1996 federal legislation on habeas petitions and prison litigation. Any analyses or interpretations of the case law are those of the Center staff who prepare the summaries.

Quoting *McCleskey v. Zant*, 499 U.S. 467 (1991), the Court explained that "'the doctrine of abuse of the writ refers to a complex and evolving body of equitable principles informed and controlled by historical usage, statutory developments, and judicial decisions.' . . . The added restrictions which the Act places on second habeas petitions are well within the compass of this evolutionary process, and we hold that they do not amount to a 'suspension' of the writ contrary to Article I, § 9."

The Court therefore dismissed for want of jurisdiction the petition for writ of certiorari. It denied the petition for an original writ of habeas corpus, finding that petitioner's claims did not satisfy "the requirements of the relevant provisions of the Act, let alone the requirement [of the Court's Rule 20.4(a)] that there be 'exceptional circumstances' justifying the issuance of the writ."

Felker v. Turpin, No. 95-8836 (U.S. June 28, 1996) (Rehnquist, C.J.).

Courts of Appeals

Tenth Circuit holds that habeas reform act's certificate of appealability is required in pending noncapital case because the standard for issuance is the same as for certificate of probable cause under former law. Petitioner moved for a certificate of probable cause pursuant to 28 U.S.C. § 2253 on Feb. 9, 1996, to appeal the Feb. 1 denial of his § 2254 petition. Section 102 (amending § 2253) of the Antiterrorism and Effective Death Penalty Act (effective April 24, 1996), requires a state prisoner appealing denial of a § 2254 petition to obtain a "certificate of appealability" instead of a certificate of probable cause. In deciding whether § 102 should be applied to the case before it, the court cited *Landgraf v. USI Film Products*, 511 U.S. 244 (1994), which it concluded "mandates that if Congress does not prescribe the scope of a statute, we apply intervening civil legislation to pending cases unless it would operate retroactively."

Since § 102 does not contain an effective date provision or clear language stating that it applies retroactively, the court said it must apply the new amendments to petitioner's application unless to do so would have retroactive effect. The court examined the law before and after April 24, 1996, and found that the required "substantial showing of the denial of a federal right" to obtain a certificate of probable cause was the same as § 102's required "substantial showing of the denial of a constitutional right" to obtain a certificate of appealability. Because the court has "always read the [earlier] standard to require a habeas petitioner to make a substantial showing of the denial of a federal constitutional right," it concluded that § 102 simply codifies the earlier standard. Therefore, application of § 102 to petitioner's request for a certificate of probable cause "would not constitute retroactive operation of a statute under *Landgraf*." (The court stressed in a footnote that it "express[ed] no opinion regarding the retroactivity concerns, if any, raised by the Act's requirement that an appeal may not be taken from the final order in a proceeding under 28 U.S.C. § 2255 unless a circuit judge issues a certificate of appealability.") Considering petitioner's application as a motion for a certificate of appealability, the court concluded that he had "failed to make a 'substantial showing of the denial of a constitutional right' as required under 28 U.S.C. § 2253 as amended by § 102."

Note: The court disagreed with the Ninth Circuit's ruling in *Williams v. Calderon*, 83 F.3d 281 (9th Cir. 1996) (*see Habeas & Prison Litigation Case Law Update*, June 1996, No. 1), that the standard for obtaining a certificate of appealability "is more demanding than the standard for obtaining a certificate of probable cause."

Lennox v. Evans, No. 96-6041 (10th Cir. June 24, 1996) (Baldock, J.).

In two other pending noncapital appeals, the Tenth Circuit concluded that the new law should not be applied under the circumstances of each case. *See Edens v. Hannigan*, No. 94-3352 (10th Cir. June 20, 1996) (Ebel, J.) (defendant filed his § 2254 petition on Nov. 16, 1992, and his notice of appeal on Oct. 12, 1994, and a certificate of probable cause was issued on Oct. 17, 1994, "all well before the new habeas corpus amendments were enacted. Under these facts we conclude that the new law does not apply to this case."); *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996) ("even if §102 applies to pending cases, we conclude no certificate of appealability is required here because the instant appeal is from a final order denying a § 2241 petition, which is neither a 'final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court' nor a 'final order in a proceeding under section 2255,'" *see* 28 U.S.C. § 2253(c)(1)(A) and (B)).

District Courts

District court finds that amended habeas statutes do not have retroactive effect and should be applied to all petitions pending on date of enactment. A state prisoner's petition seeking habeas corpus relief from his first-degree murder conviction and sentence of death had been pending in the district court since 1993. After the signing of the Antiterrorism and Effective Death Penalty Act of 1996 on April 24, 1996, the court had to determine whether to apply the habeas statutes as amended by the Act. The special procedures for capital cases in section 107 of the Act (codified at new Chapter 154, 28 U.S.C. §§ 2261–2266), could not be applied because the state procedures in this case did not meet the requirements of § 2261. However, the provision of the Act specifying that Chapter 154 "shall apply to cases pending on or after the date of enactment of this Act," would be considered by the court in deciding whether the existing habeas statutes as amended by the Act should be applied to this petition.

The court found that the purpose and structure of the Act, as well as the legislative history, indicated that "Congress intended that the amendments take effect at the same time

chapter 154 became operative: on the date of enactment." In particular, the court noted several instances in which "chapter 154's provisions are dependent upon the application of the amended versions" of the existing habeas statutes and found it "unlikely that Congress intended for the amended versions of §§ 2244, 2253, and 2254 to affect only cases falling under chapter 154." In all probability, the court said, Congress found it necessary to state expressly the effective date of the provisions of chapter 154 because the chapter relied on a state's willingness to conform to the law's newly announced standards regarding appointment and funding of counsel. "The specific language stating the scope of the chapter's application was necessary to negate the inference, created by the statutory language, that the new chapter only affected future state cases." By contrast, the amended statutes were not dependent upon a state's adoption of any standards; "therefore, Congress could safely presume that the amendments also would 'apply to pending cases,' because . . . that is the norm for 'remedial statutes.'"

With reference to whether the amendments would have retroactive effect and, therefore, should not be applied to pending cases, the court held that under the test of *Landgraf v. USI Film Products,* 511 U.S. 244 (1994), "vested rights and past transactions" were not affected by the changes to the habeas law. It observed that "statutes delineating the scope of a state prisoner's habeas corpus action are of the 'prospective-relief' type" and said there could "be no doubt that a petitioner's requested relief is prospective in nature." The court found no common law doctrine that would lead to a different conclusion. Quoting *Landgraf*, the court emphasized that "[w]ithout a statutory or common law right at stake, a newly enacted statute is not deemed to 'operate "retrospectively" merely because it is applied in a case arising from conduct antedating the statute's enactment, or upsets expectations based in prior law.'" Thus, the court held that it would apply the amended statutes and ordered reinstated the briefing schedule it had previously specified with modifications in filing deadlines.

Leavitt v. Arave, No. CIV. 93-0024-S-BLW (D. Idaho May 31, 1996)(Winmill, J.). *But cf. Warner v. U.S.*, LR-C-96-220 (E.D. Ark. May 10, 1996) (Eisele, J.) (citing *Landgraf, supra,* concluding that because defendant's second § 2255 motion was filed before April 24, 1996, and § 105 of the Act did not state that amendments to 28 U.S.C. § 2255 were to be applied either retroactively or to cases pending at time of enactment, it was not necessary to consider what effect, if any, the Act might have on this case).

District court declares unconstitutional as applied the Act's requirement that § 2254 petition must be filed within 180 days after final state court affirmance of conviction and sentence. The district court found that under new 28 U.S.C. § 2263, petitioner was barred from filing a federal habeas petition because he did not file within "180 days after final State court affirmance of [his] conviction and sentence on direct review," which occurred in 1994. The court further found that the additional thirty-day extension of time provided by § 2263(b)(3) did not help petitioner because that period could not be added after the 180-day period had completely expired.

Citing the Suspension Clause of the Constitution and *Swain v. Pressley*, 430 U.S. 372 (1977), which interpreted that clause, the court declared § 2263 an unconstitutional suspension of the writ as applied. "The Court finds that § 2263 infringes on the privilege of habeas corpus in this case because prior to its passage, the petitioner would not have been time barred, yet upon its passage he was immediately time barred; the statute provides for no safe harbor or special exception. The law would require the petitioner, prior to the passage of § 2263, to have anticipated this effect. Section 2263 in the instant case is inadequate to test the legality of the petitioner's conviction and completely prevents any consideration of the equities of the case; therefore, § 2263 violates the suspension clause and is unconstitutional as applied. The Court thus interprets the Act's 180-day limitations period as commencing for purposes of this case on April 24, 1996." The July 1, 1996, deadline previously set for the filing of petitioner's § 2254 motion would remain in effect.

Breard v. Angelone, 926 F. Supp. 546, 547–48 (E.D. Va. 1996).

District court rules that Act's capital case provisions do not apply to pending case where state plan did not meet Act's requirements for post-conviction counsel and judicial economy would be thwarted. Petitioner had been sentenced to death in Tennessee and had filed a habeas petition before enactment of the Antiterrorism and Effective Death Penalty Act of 1996. The court concluded that the Act should not be applied here for two reasons. First, "[a]lthough Tennessee law provides for the appointment of counsel for indigent prisoners seeking habeas relief, this law insufficiently ensures the competency of such counsel. Based on the language of [28 U.S.C.] § 2261(b) of the Act, the Court concludes that this portion of the Act will not apply to Tennessee capital cases until the state satisfies the prerequisite set forth in § 2261(b)."

Second, the court decided that § 2262 "should not be construed to apply to cases that are currently the subject of evidentiary hearings in federal district court." The language of § 2262(a) and (b) "suggests that once the Act is implemented, a prisoner at any stage of the habeas review process may recommence the review process by filing a new habeas corpus application. Such an application would then be reviewed in accordance with the Act." If this provision were interpreted to apply to cases such as this, in which the court "has conducted an evidentiary hearing and has completed review of thirty distinct claims for habeas relief, then the very judicial system that had almost completed an arduous review of the petitioner's claims would be forced to start over from the beginning and reanalyze each of the petitioner's claims under the revised Act. Such a reading of the Act would conflict with

the very goal of judicial economy that the Act seeks to promote." Thus, the court read "the language of Section 107(c), pertaining to the statute's effective date, to define 'pending' cases as those in which no federal district court has commenced habeas review as of the enactment of the Act."

Austin v. Bell, No. 3:86-0293 (M.D. Tenn. May 8, 1996) (Nixon, C.J.).

District court holds that Rule 22(b) does not provide it with authority to rule on petitioner's motion for a certificate of appealability. The court dismissed petitioner's habeas petition on June 6, 1996. Petitioner then filed a Motion for Issuance of Certificate of Appealability, pursuant to 28 U.S.C. § 2253(c)(1), as amended by § 102 of the Antiterrorism and Effective Death Penalty Act of 1996. The recently amended text of § 2253(c)(1)(A) provides that an appeal from a final order "in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court" may not be taken "[u]nless a circuit justice or judge issues a certificate of appealability." Looking at the plain language of the statute, the court said "it seems clear that the Court lacks the ability to rule on petitioner's present motion."

However, the Act also amended Fed. R. App. P. 22(b) to provide that "an appeal by the applicant for the writ may not proceed unless a district or circuit judge issues a certificate of appealability pursuant to section 2253(c)." After finding that "the legislative history shines absolutely no light on this patently apparent conflict in the Act," the court concluded that "[s]ince Rule 22(b) requires that applications for certificates of appealability be processed in accordance with § 2253(c), and as a district judge has no authority to rule on such applications under § 2253(c), . . . Rule 22(b) does not provide [the court] with the authority to rule on petitioner's motion for a certificate of appealability." The court noted its disagreement with *Houchin v. Zavaras*, 924 F. Supp. 115 (D. Colo. 1996) (district court has authority under Rule 22(b) to issue certificate) (see summary in *Habeas & Prison Litigation Case Law Update*, No. 1, June 1996). Admitting that its conclusion "is not free from doubt," the court denied the motion and ordered it forwarded to the court of appeals.

Parker v. Norris, Civil No. PB-C-96-143 (E.D. Ark. June 14, 1996) (Eisele, J.).

District court finds that second petition for writ of habeas corpus constitutes an abuse of the writ under both former and amended law. Because petitioner's second habeas petition was pending on April 24, 1996, and the district court was uncertain whether amendments to 28 U.S.C. § 2244 were to be applied retroactively, it analyzed the issue of whether petitioner had abused the writ under both pre- and post-Act standards. The court first concluded that the petition must be dismissed pursuant to pre-Act law and then considered the amended standards. It noted that the petitioner raised issues in his second application that were not presented in his first petition and, under the amended version of § 2244, had to satisfy one of two alternatives to prevent dismissal for abuse. The court held that petitioner could not satisfy the first alternative because he failed to make "any allegation that a new rule of constitutional law entitles him to habeas relief." § 2244(b)(2)(A). Petitioner also failed to meet either prong of the second alternative set out in § 2244(b)(2)(B)(i) and (ii). Thus, § 2244 as amended mandated dismissal of the petition as a second and successive petition that abuses the writ.

Armstead v. Parke, No. 3:95-CV-0776 AS. (N.D. Ind. June 10, 1996).

PRISON LITIGATION

Courts of Appeals

Fifth Circuit holds that Prison Litigation Reform Act (PLRA) is not yet triggered in litigation over 1983 consent decree governing Louisiana prisons. The Louisiana Department of Public Safety and Corrections challenged the district court's jurisdiction to issue an order in 1995 modifying a 1983 consent decree by reinstating nine state prisons that had previously been released from compliance with the decree. The department contended that a sunset clause in the decree was activated on November 1, 1989, terminating the court's jurisdiction as a matter of law. Therefore, it argued, the court lacked authority to enter the 1995 reinstatement order.

The Fifth Circuit affirmed the reinstatement order and returned the case to the district court for further proceedings. In doing so, the court noted that it had reviewed the PLRA and briefs on the applicability of the Act submitted by the parties and concluded that the Act had not yet been triggered in the case. Citing 18 U.S.C. § 3626(a)(1) as amended by the PLRA, which sets out criteria for the granting of prospective relief in prison reform litigation, the appellate court found that the district court had not fashioned such relief. "Instead, we understand the 1995 Order to have brought the nine previously released institutions back within the court's continuing jurisdiction so that it may examine whether prospective relief is necessary to avoid constitutional violations from occurring in those institutions." The Fifth Circuit emphasized, however, that in the future if the district court "should find a violation of a 'Federal right,' then any remedy it might fashion must conform to the standards set forth in the Act."

Williams v. Edwards, No. 95-30835 (5th Cir. June 19, 1996) (Wiener, J.).

Tenth Circuit rules that PLRA amendments to in forma pauperis statute do not apply to appeals filed before April 26, 1996. After reviewing the Act, the court of appeals concluded that the amendments to 28 U.S.C. § 1915 do not apply "when, as in this case, the prisoner/appellant filed his notice of appeal before April 26, 1996, the date President Clinton signed the Act into law." The court said it did not consider under what circumstances, if any, the amendments to § 1915 would apply if a prisoner initiated action in district court before April 26, 1996, but filed notice of appeal after that date.

White v. Gregory, No. 95-1215 (10th Cir. June 21, 1996) (Brorby, J.).

District Courts

District court grants preliminary injunction and, in accordance with the PLRA, appoints special master to ensure city's compliance. Based on unrefuted affidavits of plaintiffs—current and former prisoners at the District of Columbia's Lorton Correctional Complex—the district court found that they are likely to succeed in their claim, instituted on March 31, 1994, that the city's failure to enforce its own nonsmoking policy in the correctional facility violated the plaintiffs' Eighth Amendment rights. The court "determined that the most efficient way to ensure that the City complies with this Court's [preliminary injunction] Order is to appoint a disinterested and neutral Special Master . . . in accordance with the Prison Litigation Reform Act." It directed both parties to submit a list of not more than five persons to serve as special master. The court found "that the action it has taken is consistent with" the PLRA.

Crowder v. Kelly, No. CIV. A. 94-702 (D. D. C. May 21, 1996) (Sporkin, J.).

District court defers ruling on petition for leave to proceed in forma pauperis and grants plaintiff time to submit amended complaint and properly completed IFP petition. The district court found that plaintiff's original 42 U.S.C. § 1983 complaint failed to state a claim upon which relief could be granted. The court granted him two months to submit an amended complaint. It cautioned that the amended complaint would be dismissed with prejudice pursuant to 28 U.S.C. § 1915, as amended by the PLRA, if it failed to state a colorable claim. The court observed as well that the plaintiff's petition to proceed in forma pauperis was not supported by a properly completed copy of the court's new application, which conforms to the requirements of the PLRA regarding certification of the plaintiff's prisoner account. It deferred ruling on the IFP petition and directed the clerk to provide the plaintiff with the court's new form.

Brown v. McBride, No. 3:96-CV-297 RM (N.D. Ind. May 20, 1996) (Miller, J.).

Unpublished opinions

[Although we recognize that the precedential value of unpublished decisions and the rules and practices for citing thereto may vary among the courts, we are reporting unpublished opinions and orders in order to provide the most complete picture possible of the issues being litigated under the new legislation.]

District courts dismiss in forma pauperis petitions without prejudice because of failure to comply with PLRA filing fee requirements. On March 27, 1996, plaintiff filed a motion for leave to proceed in forma pauperis without prepay-

ment of fees and costs. On April 15, 1996, the district court directed plaintiff to pay the $120 filing fee or submit a new IFP petition showing plaintiff's inmate account statement for the preceding six-month period, properly certified by the appropriate prison official. Plaintiff complied with the court's order on May 31, 1996. Noting that the plaintiff had submitted "all of the information required under the law in effect before April 26, 1996," but had failed to comply with the PLRA, which was effective on and after that date, the court denied the plaintiff's motion without prejudice. "In the event plaintiff decides to proceed in the case, he must comply with all the provisions of the Act."

Kahn v. Malinov, No. CIV.A. 96-2501 (E.D. Pa. June 6, 1996) (DuBois, J.).

In the other case, although the district court "cannot see how the plaintiff can prevail on his due process claim" in his civil rights suit, it dismissed the action without prejudice "so that plaintiff may refile it after deciding whether his claim is so meritorious as to support his expenditure of $120 on the filing fee." Emphasizing that pursuant to the PLRA, "henceforth even in forma pauperis plaintiffs must pre-pay a portion of the fee and are obligated to pay off the balance as soon as they are able," the court warned that "should plaintiff decide to refile this action, he must pay $120 even if his complaint is dismissed as frivolous or if he otherwise loses on the merits." The court noted that under amended 28 U.S.C. § 1915(b)(1), plaintiff would have to pay "an initial partial filing fee of $6.32" (20% of the average monthly balance in his prison account for the last six months), and then "his prison account [would] be docked until he has paid the entire $120 filing fee."

Spencer v. Winbush, No. CIV.A. 96-3729 (E.D. Pa. May 29, 1996) (Vanartsdalen, J.).

District court dismisses complaint and IFP petition without prejudice because of plaintiff's failure to exhaust administrative remedies. Observing that the PLRA requires a plaintiff to exhaust "such administrative remedies as are available" before filing an action concerning prison conditions (42 U.S.C. § 1997e(a) as amended), the court said the plaintiff failed to comply with this provision. The complaint stated that the plaintiff did not "use the prisoner grievance procedure to seek relief" because he "was in fear of [the] grievance falling in the wrong hands." The court dismissed the action and the motion to proceed in forma pauperis without prejudice.

Brooks v. Superintendent Lunk of Div. 10, No. 96C3221 (N.D. Ill. June 5, 1996) (Shadur, J.).

Videoseminar on Habeas Developments

The Federal Judicial Center, in conjunction with ALI–ABA, will conduct a national videoseminar on "New Developments in the Federal Law of Habeas Corpus" on September 12, 1996, from noon to four p.m., e.d.t. The program will originate from the Center's studio in the Thurgood Marshall Federal Judiciary Building and will be offered at forty sites across the country.

Title I of the Antiterrorism and Effective Death Penalty Act, enacted in April of this year, is having far-reaching effects on how federal courts handle habeas corpus petitions, particularly where the death penalty has been imposed. The conference will begin with an overview of the new law, followed by sessions dealing specifically with retroactivity issues, constitutionality concerns, the federalism impact of the new law, and what remains of preexisting judicial standards. The videoseminar will bring judges, practitioners, staff attorneys, and law clerks up to date on the issues raised by the new law and the court cases interpreting it.

We have assembled a faculty of national experts on federal habeas corpus to analyze the new provisions and how the courts are interpreting them. The program will be moderated by Robb Jones, director of the Center's Judicial Education Division. The faculty will include James Coleman of Duke University, Barry Friedman and Nancy King of Vanderbilt University, Leon Friedman of Hofstra University, Joseph Hoffmann of Indiana University, James Liebman of Columbia University, Ira Robbins of American University, and Larry Yackle of Boston University. Federal judges on the faculty will include District Judge Rya Zobel (the Center's director) and Eleventh Circuit Judge Edward Carnes.

The program will be available on videotape by early October to anyone unable to attend the program on September 12. Courts that have their own satellite downlink equipment and wish to receive the program should contact Robb Jones or Denise Neary at the Center at (202) 273-4059.

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