

"SPOILED MILK"

The average American might be quite shocked to learn that there is a potential expiration date placed upon his or her constitutional rights. I know I was. I learned about this expiration date when I was "time-barred" from presenting the constitutional violations which had occurred in my severely flawed trial to a federal habeas court. According to that court, it did not matter that my constitutional rights had been denied me at trial because I had taken TOO LONG to tell them about it.

This expiration date comes in the form of a 1-year statute of limitations for filing a federal writ of habeas corpus, which is an inmate's sole avenue to prove that his or her incarceration is unlawful. This time limit is part of the Anti-terrorism and Effective Death Penalty Act (AEDPA) which was signed into effect in 1996, two years after my incarceration. The AEDPA was enacted by then-president Bill Clinton. This is truly ironic considering the fact that Mr Clinton was supposedly so supportive of the poor and minorities since the AEDPA severely restricts the possibility of anyone who cannot afford to hire attorneys to adequately challenge their convictions.

(In my case, my family scraped together enough to hire an attorney but he lied to us regarding the existence of time limits in habeas proceedings and assured us that he was in the process of filing a writ on my behalf. Having no reason not to believe him, I trusted him to do the job he had been hired to do while I focused on surviving my first months in a maximum-security prison. He never filed anything and by the time I found out about them, the 1-year statute of limitations had expired. The courts held that I should have somehow discovered this sooner, basically that I should have assumed or predicted that my attorney was lying and would not do his job and learned the law myself. Who has ever learned plumbing to ensure that plumbers properly do a job for which they have been hired or who goes to automotive classes to ensure that hired mechanics fix a car's engine properly? People don't do that. We trust professionals to do the work we hire them to do. Yet, according to AEDPA rules and the federal courts, I should have been focused on learning the law within a year's time while trying to adapt to prison life just to make sure that my attorney was actually doing what he had promised. That is an unjust and unreasonable expectation.)

One year. It sounds like a long time. However, attorneys attend law school for several years to learn about appellate law and legal pitfalls such as the AEDPA's 1-year statute of limitations. Yet, inmates, many of whom come to prison woefully uneducated and often illiterate, some of whom cannot even speak much less read English, many of whom, like myself, are thrown onto "gladiator

farms" and forced to focus on staying alive and sane in a hostile alien environment...these inmates are expected to somehow learn enough about the law and the legal system to, not only even be aware that such a time limit exists, but to be able to adequately present their case to a federal habeas court within that allotted one year's time. That is a short year...

These prisons are full of people who were denied their constitutional rights at trial which resulted in their often wrongful convictions, but because they had no knowledge of the AEDPA's 1-year time limit before it had expired, they cannot present their case to a federal court in hope of obtaining a fair trial. Treating people's constitutional rights like spoiled milk, the courts simply refuse to look at it if the writ is presented beyond that 1-year "expiration date".

The argument in favor of this statute of limitations tends to be that it prevents death row inmates from lengthily delaying their executions by filing numerous federal writs. (Ergo the "effective death penalty" portion of the act.) This pro-AEDPA argument is a lie. There were already "abuse-of-writ" rules in place which prevented anyone from filing successive and numerous writs prior Bill Clinton enacting the AEDPA. However, prior to that act, an inmate could file ONE habeas appeal to the federal courts regardless of whether it took him a year or the four or more years that most attorneys attend law school in order to learn enough about law to ADEQUATELY present his case. Then, the federal court was required to determine whether or not his constitutional rights had been denied and, in effect, whether or not his conviction stemmed from a fair trial. That is as it should be.

It should not matter how long it takes a person to show that his constitutional rights were violated. He should get ONE chance to present his case to the federal courts who, in turn, should have to make a proper determination as to whether or not his constitutional rights were denied at trial. They should never be allowed to basically tell a person that even if his constitutional rights were violated, he is out of TIME to appeal. That is simply criminal and is the very reason that a large number of inmates are in these prisons right now - we are "time-barred" from presenting our cases to federal courts even though our convictions were obtained in often horribly unfair trials.

Apparently, in accord with the AEDPA's statute of limitations, our constitutional rights have spoiled like milk beyond a 1-year expiration date and, like spoiled milk, they have been thrown out along with our very lives.

Constitutional rights should never have an expiration date.

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