

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH
CIVIL ACTION NO. 5:09CV-P32-R**

MICHAEL ADAM CARNEAL

PETITIONER

v.

J. DAVID DONAHUE

RESPONDENT

MEMORANDUM AND ORDER

This matter is before the Court on Respondent's motion to hold this matter in abeyance pending the United States Supreme Court's anticipated opinion in *Holland v Florida*, 539 F.3d 1334 (11th Cir. 2008), *cert. granted*, 130 S. Ct. 398, 175 L. Ed. 2d 267 (2009). Respondent asserts that *Holland* could be dispositive of the equitable tolling issue in this case. Petitioner argues that the facts of *Holland* are markedly different than the facts of this case, and therefore, the Supreme Court's decision in *Holland* is not likely to impact the issues in this case.

"The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). The Court has reviewed the briefings associated with the *Holland* case as well as the March 1, 2010, oral argument transcript. Upon doing so, the Court concludes that there is a strong possibility that the Supreme Court will provide the lower federal courts with additional guidance regarding under what circumstances, if any, equitable tolling is applicable to AEDPA's statute of limitations. Furthermore, since oral argument has already been completed, it is likely that the Supreme Court will issue a decision in *Holland* before the end of the current term.

Thus, the Court concludes that most judicious course of action would be to stay this case

pending a decision by the Supreme Court in *Holland*. Holding this case in abeyance and maintaining the status quo for a brief period of time will minimize the litigation expenses to the parties by avoiding potentially additional litigation should the state of the law change in the next several months. Accordingly,

IT IS HEREBY ORDERED that Respondent's motion to hold this matter in abeyance (DN 34) is **GRANTED** and that this action is **STAYED** and all proceedings are **HELD IN ABEYANCE** pending a decision by the United States Supreme Court in *Holland*.

IT IS FURTHER ORDERED that the parties shall notify the Court in writing when an opinion has been issued by the United States Supreme Court in *Holland*. At that time, the Court will set a status/scheduling conference.

IT IS FURTHER ORDERED that the telephonic conference set for April 20, 2010, is **CANCELLED**.

Date:

cc: Counsel of record

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