



(count one), possession of a weapon for an unlawful purpose (count four), and unlawful possession of a weapon (count five); affirmed the sentence on the murder conviction (count one); and remanded for resentencing on the convictions for possession of a weapon for an unlawful purpose (count four) and unlawful possession of a weapon (count five). [Docket entry 3, p. 7.] See State v. Reevey, 2008 WL 959251 (N.J. Super., App. Div., Apr. 10, 2008).

4. The New Jersey conviction which Petitioner challenges in the instant § 2254 Petition is not final for the purpose of filing a petition for writ of habeas corpus under 28 U.S.C. § 2254. See Kapral v. United States, 166 F. 3d 565, 575 (3d Cir. 1999) (a conviction becomes final for purposes of filing habeas petition or other collateral attack on the conviction or sentence either when the Supreme Court denies certiorari or the time to file a petition for certiorari expires).

5. Because the conviction Petitioner challenges is not final, the one-year statute of limitations has not yet begun to run. See 28 U.S.C. § 2244(d)(1)(A) (one year period of limitation applying to a petition for a writ of habeas corpus by a person challenging the judgment of a state court runs from the latest of four dates, including the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review).

6. Good cause for a stay and abeyance is not present, and a stay is not warranted. See Rhines v. Weber, 544 U.S. 269, 274-79 (2005).

7. Because Petitioner's state conviction is not final on direct review, the instant § 2254 Petition is premature. This Court will dismiss the Petition without prejudice as premature and deny a certificate of appealability.

8. An appropriate Order accompanies this Memorandum Opinion.

June 17, 2009

s/Freda L. Wolfson  
**FREDA L. WOLFSON, U.S.D.J.**