

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Freddie Owens,

PETITIONER

v.

Bryan P. Stirling, Commissioner, South
Carolina Department of Corrections; Joseph
McFadden, Warden, Lieber Correctional
Institution,

RESPONDENTS

Case No. 0:16-cv-02512-TLW-PJG

Order

Pursuant to 28 U.S.C. § 2266(b)(1)(A), “[a] district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 450 days after the date on which the application is filed, or 60 days after the date on which the case is submitted for decision, whichever is earlier.” Subsection (b)(1)(C)(i) permits a 30-day extension “if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.”

Petitioner filed his amended petition for writ of habeas corpus on September 8, 2016.¹ The case was stayed from October 18, 2016 to April 27, 2017 (192 days), as he was litigating in state court his second PCR action that he had filed pursuant to *Martinez v. Ryan*, 566 U.S. 1 (2012).

¹ It is not clear from the statute whether the 450-day period runs from the filing of the initial petition or the amended petition, but because the amended petition is the operative pleading that was briefed and will be ruled upon, and in the absence of any case law to the contrary that this Court has located, the Court concludes that the time runs from the filing of the amended petition.

The case was fully briefed and submitted to this Court for decision on March 2, 2018. Accordingly, the Court concludes that the deadline under the 450-day calculation (excluding the 192-day stay) is June 12, 2018 and the deadline under the 60-day calculation is May 1, 2018. Because the 60-day calculation results in an earlier deadline, that is the operative calculation under § 2266(b)(1)(A).

Having considered the factors listed in § 2266(b)(1)(C)(ii) and noting the thoroughness of the magistrate judge's R&R and the parties' briefings and related filings, as well as the lengthy state court record and significant issues raised by Supreme Court decisions, the Court finds that the ends of justice support a delay of an additional 30 days beyond the 60-day deadline of May 1, 2018, making the new deadline May 31, 2018.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

April 27, 2018
Columbia, South Carolina