

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

Anthony Woods,)
)
 Petitioner,)
)
 vs.)
)
 Bryan P. Stirling, *Director, South Carolina*)
Department of Corrections, and Willie D.)
 Davis, *Warden, Kirkland Reception and*)
Evaluation Center,)
)
 Respondents.)
)

5:18-cv-00144-DCN-KDW

ORDER

The petitioner, Anthony Woods (“Woods”), is a state prisoner sentenced to death. On May 10, 2018, this court granted Woods’s motion for a stay of execution pursuant to 28 U.S.C. § 2251(a)(1). ECF No. 42. The court ordered the parties to submit further briefing on the statute of limitations in this case. ECF No. 42. Having reviewed the submissions, the court now sets the deadline for Woods’s amended petition as September 21, 2018 based on the following reasoning.

The parties agree that Woods’s convictions became final ninety days after the denial of his direct appeal on May 13, 2009. See ECF No. 46 at 5; ECF No. 47 at 2. Based on the court’s calculations, the last day on which Woods could file a petition for writ of certiorari in the United States Supreme Court was August 11, 2009. See Sup. Ct. R. 13; Fed. R. App. P. 26(a)(1). The parties agree that Woods filed his initial application for post-conviction relief (“PCR”) on November 23, 2009, thereby tolling the statute of limitations. See ECF No. 46 at 5; ECF No. 47 at 2. Between August 11, 2009 and November 23, 2009, not including either of those dates, 103 days elapsed, leaving 262 days of untolled time for purposes of the statute of limitations calculation. The statute of

limitations remained tolled until the conclusion of Woods's PCR action in state court. See 28 U.S.C. § 2244(d)(2). As Respondents correctly note, the date of finality for PCR actions is subject to some dispute in this jurisdiction. Based on the reasoning in Beatty v. Rawski, 97 F. Supp. 3d 768, 774 (D.S.C. 2015), the court uses the date the remittitur was filed in state circuit court as the date on which Woods's PCR action became final. The parties agree that that date was January 3, 2018. ECF No. 46 at 6; ECF No. 47 at 3. Adding the remaining untolled time to that date, the statute of limitations runs on September 22, 2018 in the instant action.

Finding that Woods's counsel should be afforded additional time to complete their Martinez investigation, the court directs Woods to file his amended petition on or before Friday, September 21, 2018. See Martinez v. Ryan, 566 U.S. 1 (2012). Once Woods files his amended petition, the court will issue a scheduling order.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', written over a horizontal line.

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

August 1, 2018
Charleston, South Carolina