

Federal Habeas Manual

A Guide to Federal Habeas Corpus Litigation

By Brian R. Means

2026 Edition

The 2026 edition of the Federal Habeas Manual keeps you up-to-date on the latest legal developments in the continually evolving field of federal postconviction relief. The updates represent the painstaking review of thousands of recent federal court decisions for content, relevance, and significance. This new edition adds expert analysis and hundreds of new federal court decisions. These updates are reflected in nearly every chapter of the book. Some subjects have undergone substantial revisions, while many others have been updated to include the most recent authority available. Some of the more significant changes involve:

Chapter 1 (Subject Matter Jurisdiction and Related Matters)

Chapter 1 has been revised to update the law governing federal subject matter jurisdiction and related threshold doctrines, including:

- The scope of the “in custody” requirement, including its application to detention on a parole warrant, release on bail or own recognizance, and challenges arising from completed sentences (§§ 1:10, 1:73);
- The treatment of concurrent sentences and their effect on habeas jurisdiction (§ 1:13);
- The availability and proper use of relief under 28 U.S.C.A. § 2241 for federal prisoners, and the distinction between §§ 2241, 2254, and 2255 (§§ 1:29, 1:31);
- The continued viability and limitations of the writ of error *coram nobis* as a postconviction remedy (§ 1:30);
- The availability of habeas relief for claims that do not necessarily invalidate the fact or duration of confinement (§ 1:35);
- The treatment of claims based solely on violations of state law, and the limits of federal habeas review in that context (§ 1:44);

- The enforceability and scope of waivers of the right to direct appeal and collateral review (§ 1:63); and
- The jurisdictional implications of various forms of custody, including incarceration, parole, probation, and supervised release (§ 1:68).

Chapter 2 (Interplay Between Habeas and Civil Rights)

Chapter 2 has been revised to update the law governing the interaction between habeas corpus and civil rights actions under 42 U.S.C.A. § 1983, including:

- The scope and application of the rule in *Heck v. Humphrey*, including clarification that its bar is not limited to § 1983 claims (§ 2:5);
- The definition of a “conviction” for purposes of *Heck*, including the treatment of pretrial diversion and similar dispositions (§ 2:13);
- The effect of guilty and nolo contendere pleas on the availability of civil rights remedies (§ 2:15);
- The distinction between habeas and civil rights claims in the context of Fourth and Fifth Amendment violations, including excessive force claims (§ 2:23);
- The proper characterization of challenges to prison disciplinary proceedings (§ 2:27); and
- The availability of relief for claims based on overdetention and related custody errors (§ 2:35).

Chapter 3 (AEDPA Review Standards)

Chapter 3 has been revised to update the law governing the standards of federal habeas review under the Antiterrorism and Effective Death Penalty Act (AEDPA), including:

- The requirement that a claim be “adjudicated on the merits” in state court before AEDPA deference applies, and the treatment of summary and unexplained state court decisions (§§ 3:7, 3:9);
- The handling of omitted claims and arguments, including when a federal court may infer a merits adjudication (§ 3:12);
- The significance of the “last reasoned decision” and the application of the look-through doctrine, including cases involving multiple reasoned state court decisions (§ 3:25);
- The scope of the “clearly established Federal law” limitation under § 2254(d)(1), including illustrative Supreme Court precedents (§§ 3:32, 3:41);
- The meaning and consequences of a determination that a state court decision is “contrary to” clearly established law (§ 3:51);
- The requirement that reasonableness be assessed based solely on the record before the state court (§ 3:64);

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- The application of AEDPA deference to intrinsic challenges to state court reasoning and outcomes (§ 3:84); and
- The circumstances under which AEDPA's deferential standard may be waived or forfeited (§ 3:97).

Chapter 4 (Evidentiary Hearings)

Chapter 4 has been revised to update the law governing evidentiary hearings in federal habeas proceedings, including:

- The consequences of a petitioner's failure to develop the factual basis of a claim in state court proceedings, and the resulting limitations on federal evidentiary hearings (§ 4:5); and
- The meaning and application of the "diligence" requirement in determining whether a petitioner may rely on new evidence in federal court (§ 4:7).

Chapter 5 (Expansion of the Record)

Chapter 5 has been revised to clarify the circumstances under which a federal habeas court may expand the record without conducting a full evidentiary hearing, including:

- The limitations imposed when a petitioner has failed to develop the factual basis of a claim in state court, and the relationship between record expansion and the requirements of § 2254(e)(2) (§ 5:5).

Chapter 7 (The *Teague* Rule)

Chapter 7 has been revised to expand the discussion of the non-retroactivity doctrine under *Teague v. Lane*, including:

- Clarification of the procedural posture in which *Teague* applies relative to other threshold doctrines (§ 7:2); and
- Expanded analysis of leading Supreme Court decisions interpreting and applying the *Teague* framework (§ 7:40).

Chapter 8 (District Court Pleadings and Practice)

Chapter 8 has been revised to update federal pleading and practice requirements under §§ 2254 and 2255, including:

- The requirement of specificity in habeas pleadings and the consequences of conclusory or inadequately developed claims (§ 8:3).

Chapter 9A (Statute of Limitations)

Chapter 9A has been extensively revised to reflect developments in the law governing AEDPA's one-year statute of limitations, including:

- The determination of the effective date for commencement of the limitations period (§ 9A:3);

- The effect of appellate remand, resentencing, and the entry of new, corrected, or intervening judgments, including restitution orders (§ 9A:18);
- The application of § 2244(d)(1)(C) where the Supreme Court recognizes a new rule of constitutional law (§ 9A:29);
- The discovery of the factual predicate for a claim and the associated “due diligence” requirement (§ 9A:33);
- The principle that knowledge of the underlying facts, rather than their legal significance, controls accrual (§ 9A:34);
- The circumstances under which evidentiary support is not required to trigger the limitations period (§ 9A:37);
- The effect on finality where a petitioner does not appeal the denial of state postconviction relief (§ 9A:57);
- The scope of statutory tolling during collateral review proceedings (§ 9A:74);
- The diligence requirement for equitable tolling (§ 9A:86);
- The impact of attorney abandonment or egregious misconduct on equitable tolling (§ 9A:104);
- The effect of misconduct or delay by government officials (§ 9A:108);
- The doctrine of relation back and the requirement of a common core of operative facts (§ 9A:148);
- Waiver and forfeiture of statute of limitations defenses (§ 9A:159); and
- The authority of federal courts to raise and resolve timeliness issues *sua sponte* (§ 9A:162).

Chapter 9B (Procedural Default)

Chapter 9B has been revised to clarify the law governing procedural default and its application in both state and federal habeas proceedings, including:

- The treatment of defaults occurring at stages of the state court proceeding where the petitioner, although represented by counsel, had no constitutional right to counsel (§ 9B:62);
- The circumstances under which “cause” may be established where the same attorney represented the petitioner at trial and on appeal or collateral review (§ 9B:65); and
- The scope and application of the actual innocence gateway to overcome procedural default (§ 9B:79).

Chapter 9C (Exhaustion)

Chapter 9C has been revised to expand and clarify the law governing the exhaustion requirement under 28 U.S.C.A. § 2254, including:

- The effect of intervening changes in a federal court’s interpretation of federal law on the exhaustion requirement (§ 9C:8);

- The availability of exceptions to exhaustion, including excessive delay in the state court review process (§ 9C:49); and
- The use of stay-and-abeyance procedures to permit exhaustion of unexhausted claims (§ 9C:70).

Chapter 11 (Second or Successive Petitions and Motions)

Chapter 11 has been significantly revised to clarify what qualifies as a “second or successive” petition or motion under 28 U.S.C.A. §§ 2244 and 2255, including:

- The distinction between § 2244 petitions and § 2255 motions, and the application of equivalent standards in determining whether a filing is second or successive (§ 11:9);
- The relationship between the Suspension Clause and restrictions on new-claim successive petitions (§ 11:11);
- The treatment of same-claim petitions and the circumstances under which they may proceed (§ 11:22);
- The governing framework for new-claim petitions, including general principles and statutory requirements (§§ 11:25, 11:35);
- The scope of the actual innocence exception to the bar on successive petitions (§ 11:30);
- The requirement that new rules be made retroactive to cases on collateral review by the Supreme Court (§ 11:37);
- The meaning of “previously unavailable” rules or claims (§ 11:38);
- Whether a prior action must have concluded before a subsequent petition is deemed successive (§ 11:41);
- The effect of intervening judgments on the successive-petition analysis (§ 11:47);
- The treatment of cases in which the initial petition was dismissed as untimely (§ 11:47);
- The application of successive-petition principles to Brady claims (§ 11:53);
- The treatment of post-judgment motions, including Rule 60(b) motions and Rule 59(e) motions to amend judgment (§§ 11:63, 11:66);
- The availability of relief where the claim asserted in the second petition was not available at the time of the initial § 2254 or § 2255 proceeding (§ 11:74);
- Whether representation by the same counsel excuses the failure to raise ineffective assistance of counsel claims in an initial petition (§ 11:75);
- The application of these principles to § 2241 petitions (§ 11:81); and
- The prima facie showing required to obtain authorization to file a second or successive petition (§ 11:86).

Chapter 12 (Post-Judgment Proceedings and Appeals)

Chapter 12 has been revised to clarify the law governing post-judgment motions and appellate procedures in postconviction cases, including:

- The time limits applicable to motions under Federal Rule of Civil Procedure 60 (§ 12:16); and
- The authority of the courts of appeals to expand certificates of appealability (§ 12:87).

Chapter 13 (Relief and Remedies)

Chapter 13 has been revised to clarify the law governing the remedies available to a petitioner who has satisfied the burden of establishing entitlement to habeas relief, including:

- The nature and operation of the conditional writ of habeas corpus (§ 13:13).

Brian R. Means,
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