

Federal Habeas Manual

A Guide to Federal Habeas Corpus Litigation

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2025 Edition

The 2025 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:

- Challenges to the execution of sentence and the custody requirement in cases involving conditions of confinement (§ 1:28);
- The standards governing conditions of confinement claims brought under § 2241 (§ 1:29);
- The availability and scope of the writ of error coram nobis (§ 1:30);
- The availability of habeas corpus for claims that do not necessarily invalidate the duration of confinement (§ 1:35);
- The cognizability of state law errors on federal habeas review (§ 1:44);
- The cognizability of freestanding actual innocence claims and the significance of newly discovered evidence of innocence (§ 1:61);
- The effect of a waiver of the right to direct appeal and collateral review on subsequent habeas claims (§ 1:63);

- The mootness doctrine as it applies to the institution of retrial proceedings following the grant of habeas relief (§ 1:79);
- Article III standing principles applicable to habeas petitioners (§ 1:84); and
- The applicability and scope of the Younger abstention doctrine in federal habeas cases (§§ 1:110 to 1:111).

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 *Heck v. Humphrey* bar (§ 2:1), with expanded discussion of when a § 1983 claim may proceed despite a related conviction, such as where the civil claim does not share a common nucleus of operative facts with the conviction (§ 2:7) or where the conviction was vacated pursuant to a settlement agreement (§ 2:8);
- The permissibility of interlocutory appeals from orders denying dismissal based on *Heck* (§ 2:10);
- The doctrines of waiver and bypass and their relevance to parallel habeas and civil rights claims (§ 2:16);
- Circumstances under which § 1983 relief is available when habeas relief is not (§ 2:17);
- The appropriate procedural posture for Fourth Amendment malicious prosecution claims (§ 2:25);
- The scope of § 1983 as a vehicle for method-of-execution challenges (§ 2:26);
- The availability of habeas or § 1983 relief in the context of prison disciplinary proceedings (§ 2:27) and state parole decisions (§ 2:28); and
- The proper vehicle for litigating overdetention claims and the dividing line between habeas and § 1983 in such contexts (§ 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:

- Recent Supreme Court decisions reaffirming that AEDPA deference must be applied rigorously and cannot be circumvented through facially deferential but effectively de novo review, and cautioning against inferring inconsistency from state court opinions or prolonging habeas proceedings without a legal basis to consider new evidence (§ 3:2);
- Expanded discussion of the evolving jurisprudence on what constitutes an adjudication “on the merits,” including where a state court denies a state-law claim without explicitly ad-

addressing a related federal claim; where the state court fails to adjudicate a component of the petitioner's federal claim; where the state court omits reference to a claim unrelated to any others expressly addressed; where the decision is ambiguous; or where the state court concludes the petitioner failed to allege a prima facie case under federal law (§§ 3:10 to 3:13, 3:15);

- In the context of AEDPA's "contrary to" limitation, updated analysis of when a state court's use of imprecise or shorthand language in stating the legal standard, or its application of an incorrect test, renders its decision contrary to clearly established federal law (§§ 3:46, 3:49);
- Additional discussion of AEDPA's "unreasonable application" prong, including the significance of the state court's reasoning in determining whether its application of federal law was objectively unreasonable (§§ 3:52, 3:70); and
- Clarification of the deference owed to state court factual findings, including findings intrinsic to the court's legal determinations (§§ 3:80, 3:84).

Chapter 4 (Evidentiary Hearings)

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

- The standards governing the receipt of new evidence in cases where the state court has adjudicated the claim on the merits, and the limited exceptions to AEDPA's evidentiary bar (§ 4:4);
- The consequences of a petitioner's failure to develop the factual basis for a claim in state court, including discussion of the "due diligence" requirement under § 2254(e)(2) (§§ 4:5 to 4:7);
- The statutory exceptions to the evidentiary hearing bar, including where the claim is based on a new rule of constitutional law, a previously unavailable factual predicate, or a showing of actual innocence (§ 4:8); and
- When an evidentiary hearing is appropriate or required in cases not barred under AEDPA, including where the petitioner alleges grounds for relief under AEDPA's deferential review standards (§§ 4:12 to 4:14).

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 scope of permissible record expansion under §§ 5:1 to 5:4, with clarification that a petitioner may not submit new evidence—either in support of a new claim or to supplement an existing one—if the failure to develop that evidence in state court was attributable to the petitioner or

counsel, unless the conditions of § 2254(e)(2) are satisfied (§ 5:5); and

- The requirement for an evidentiary hearing when the resolution of the petition turns on the credibility of competing factual assertions (§ 5:8).

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 issues (§ 7:2); and
- Expanded discussion of the 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:

- Preliminary screening by the district court and the standards governing summary dismissal under Rule 4, including when dismissal is warranted based on facially frivolous, vague, or non-cognizable claims (§ 8:4);
- The statutory right to appointed counsel in capital and non-capital habeas proceedings, including eligibility and procedural timing (§ 8:21);
- Clarification of the standards for summary dismissal at the early stages of review (§ 8:22);
- The availability and limitations of summary judgment practice in habeas cases under Rule 56, and how summary judgment principles interact with habeas-specific rules (§ 8:36);
- The governing standards for amending pleadings under Rule 15(a), including the distinction between amendments as of right and amendments requiring leave of court (§ 8:38); and
- The relevance of undue delay and futility in evaluating motions to amend in the habeas context (§§ 8:42 to 8:43).

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 finality of judgment as the commencement date for the limitations period, including its application following direct appeals and resentencing (§ 9A:12);
- The effect of other events on the date of finality, including appellate remands, corrected or intervening judgments, and restitution orders (§ 9A:18);

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- The commencement of the limitations period based on the discovery of a factual predicate, including claims involving ineffective assistance of counsel and changes in controlling law (§ 9A:36);
- Statutory tolling principles, including clarification that tolling is generally inapplicable where a state collateral petition was filed and denied before AEDPA's effective date or after the federal limitations deadline has expired (§ 9A:45);
- Equitable tolling, including the due diligence requirement (§ 9A:86), the necessity of a causal nexus between the extraordinary circumstance and untimeliness (§ 9A:87), and the effect of a change in controlling state law (§ 9A:100);
- Equitable tolling in specific contexts, including abandonment by counsel due to failure to provide the legal file (§ 9A:106), mental incompetency or physical disability (§ 9A:107), delay in receiving a court disposition (§ 9A:112), and uncertainty or changes in the law concerning limitations calculations (§ 9A:116);
- The doctrine of prospective equitable tolling, particularly where exhaustion is required before a federal filing (§ 9A:117);
- Rules governing extensions of time to file § 2254 petitions or § 255 motions (§ 9A:120);
- The actual innocence exception to the statute of limitations (§ 9A:146);
- Relation back of otherwise untimely claims to a timely-filed petition, including claims newly exhausted and reasserted after a prior dismissal (§§ 9A:148, 9A:154);
- Standards of appellate review applicable to limitations rulings and relation-back determinations (§ 9A:158); and
- Procedures for asserting the limitations defense in motions to dismiss (§ 9A:160).

Chapter 9B (Procedural Default)

Chapter 9B was updated to clarify procedural default rules and their application in both state and federal habeas contexts. Revisions include:

- The principle that procedural default is generally decided as a preliminary issue (§ 9B:5);
- Limitations imposed by the adequacy doctrine, including mental competency claims (§ 9B:48);
- Avoidance of a procedural default (§ 9B:50), including claims of ineffective assistance of counsel and abandonment of client (§ 9B:62), the requirement that the error must rise to the level of a Sixth Amendment violation (§ 9B:64), and the exhaustion requirement of an ineffectiveness claim constituting the basis for “cause” to excuse a default (§ 9B:66); and
- Actual innocence claims, including the gateway standard (§§ 9B:78, 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 state court’s interpretation of federal law, and the general principle that such changes do not require re-exhaustion of already adjudicated claims (§ 9C:9);
- The implications of newly announced state procedural rules or reinterpretations of substantive state law, and whether they impose additional exhaustion obligations (§ 9C:10);
- The specificity required to exhaust a claim in state court, including the requirement to allege operative facts and present legal theory within the “four corners” of the state court filing (§§ 9C:32, 9C:37);
- The effect of presenting new or additional facts in federal court and whether such additions “fundamentally alter” the claim so as to render it unexhausted (§ 9C:33); and
- The standards governing federal court stays to permit exhaustion, including when stay-and-abeyance is appropriate under *Rhines* and when it may be denied due to lack of diligence or plainly meritless 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 to determine whether a filing is second or successive (§ 11:9);
- The bar on reasserting the same claim in a second petition and the criteria for raising new claims based on rules made retroactive by the Supreme Court (§§ 11:22, 11:37);
- The requirement that the initial petition or motion be fully concluded before a subsequent filing can be deemed second or successive (§ 11:41);
- The effect of intervening state or federal court judgments on the applicability of the successive petition bar (§ 11:47);
- The treatment of voluntary dismissals of initial petitions and whether such dismissals trigger the bar on successive petitions (§ 11:58);
- The distinction between proper post-judgment motions (e.g., Rule 59(e), Rule 60(b)) and disguised second or successive habeas petitions (§§ 11:63, 11:66);
- Exceptions for claims that could not have been raised in the earlier proceeding, including incompetency to be executed claims that become ripe only after the initial habeas proceeding concludes (§ 11:74);

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- Procedural requirements, including the obligation of the district court to dismiss or transfer unauthorized second or successive petitions (§ 11:81); and
- The prima facie showing required to obtain circuit court authorization to file a second or successive habeas petition or motion (§ 11:85).

Chapter 12 (Post-Judgment Proceedings and Appeals)

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

- The standards governing reconsideration and relief from judgment under Rules 59 and 60, including the grounds for seeking relief under the “catchall” provision of Rule 60(b)(6) (§ 12:14);
- Procedures and requirements for filing a notice of appeal in habeas proceedings, including technical and jurisdictional considerations (§ 12:35);
- Applicable filing deadlines and the rules governing timely initiation of appeals (§ 12:38);
- Clarification that the time to appeal is triggered by the formal “entry” of judgment or order on the docket, not the date of the ruling itself (§ 12:40);
- The effect of mistakenly filing a notice of appeal directly in the court of appeals rather than in the district court (§ 12:43);
- The certificate of appealability requirement for federal prisoners proceeding under §§ 2241 and 2255, including when it applies and what it must address (§ 12:75); and
- The procedures and standards for reviewing certificates of appealability issued by district courts, including appellate court oversight (§ 12:86).

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