Editor's Introduction to *Postconviction Remedies*, 2026 edition

Postconviction Remedies has been comprehensively updated to incorporate important recent developments in state and federal collateral review. The new edition analyzes major Supreme Court decisions, expands the treatment of federal habeas procedure and record development, and clarifies numerous substantive and procedural standards governing postconviction relief. Principal revisions include:

Major Supreme Court developments. The new edition expands its examination of the Roberts Court's habeas jurisprudence, including its emphasis on finality, federalism, AEDPA deference, and procedural regularity. Recent decisions include *Glossip v. Oklahoma*, addressing the prosecution's failure to correct material false testimony; *Andrew v. White*, confirming that due process prohibits evidence so prejudicial that it renders a trial fundamentally unfair; and *Gutierrez v. Saenz*, clarifying Article III redressability in challenges to state postconviction DNA-testing procedures.

Comprehensive revision of the right-to-counsel and ineffective-assistance. The chapter addressing the constitutional right to counsel has been substantially reorganized, expanded, and updated. It now provides an integrated framework for determining when the Sixth Amendment right attaches, which proceedings constitute critical stages, and which standard governs the alleged violation. The revised treatment distinguishes ordinary ineffective-assistance claims under *Strickland v. Washington* from the complete or constructive denial of counsel, conflicts of interest, and government intrusion into the attorney-client relationship—circumstances in which prejudice may be presumed or a different standard may apply. It also substantially expands the analysis of counsel's duties during plea negotiations, investigation and preparation, the use of experts, trial, mitigation, sentencing, and appeal. Recent authority addresses deficient investigation, legal errors affecting expert assistance, omitted mitigation, failure to file or perfect an appeal, *Anders obligations*, and the interaction between Strickland and AEDPA's deferential standard of review.

Second or successive applications. The successive-petition chapter has been substantially revised. *Rivers v. Guerrero* holds that a later habeas filing ordinarily becomes "second or successive" once the district court enters judgment on the initial application, even while an appeal remains pending. *Bowe v. United*

States clarifies that, although federal prisoners remain subject to the court-of-appeals certification procedure, the substantive restrictions governing state-prisoner applications are not automatically incorporated into § 2255(h). The revisions also address Rule 60(b) motions, amended judgments, and newly ripe claims.

Habeas corpus and civil-rights actions. The discussion of 42 U.S.C. § 1983 has been extensively updated in light of *Olivier v. City of Brandon. Heck v. Humphrey* applies to retrospective claims that function as collateral attacks on existing convictions or sentences, but does not bar purely prospective relief intended to prevent future enforcement of an allegedly unconstitutional law. The edition also updates the treatment of excessive-force claims, prison disciplinary proceedings, overdetention, method-of-execution challenges, and access to DNA evidence.

Federal record development. The chapters addressing discovery, expansion of the record, and evidentiary hearings now more fully integrate *Cullen v. Pinholster, Shinn v. Ramirez*, and related decisions. Review under § 2254(d) ordinarily is limited to the evidence presented to the state court, and petitioners generally may not use discovery, Rule 7 expansion, transportation orders, or evidentiary hearings to obtain evidence that federal law prohibits the court from considering. The edition also clarifies the relationship among §§ 2254(d)(1), 2254(d)(2), and 2254(e)(2).

Exhaustion, procedural default, and timeliness. The exhaustion chapter more closely connects fair presentation with the obligation to develop the factual basis of federal claims in state court and addresses excessive delay, protective petitions, and stay-and-abeyance under *Rhines v. Weber*. The procedural-default chapter expands the treatment of the limited *Martinez–Trevino* exception. The limitations chapter has been updated to address amended judgments, deferred restitution, alternative commencement dates, equitable tolling, waiver and forfeiture, relation back, and sua sponte consideration of untimeliness.

Trial fairness and prosecutorial obligations. The discussions of evidentiary error, Brady claims, and prosecutorial misconduct incorporate important recent authority. *Andrew v. White* confirms that clearly established federal law need not arise from a Supreme Court case involving materially identical evidence. *Glossip v. Oklahoma* reinforces the prosecution's duty to correct material false testimony. The revised Brady discussion further addresses proof of suppression, impeachment evidence, preservation of potentially exculpatory evidence, and cumulative materiality.

Jury trial, sentencing, and ex post facto law. The jury-trial chapter analyzes *Erlinger v. United States*, which requires a jury to determine beyond a reasonable doubt whether prior offenses occurred on separate occasions when that fact increases the statutory sentencing range. The Ex Post Facto Clause chapter incorporates *Ellingburg v. United States*, which holds that restitution under the Mandatory Victims Restitution Act constitutes criminal punishment and clarifies the framework for determining whether a statutory sanction is punitive.

Right to counsel. The ineffective-assistance chapter has been reorganized and expanded to distinguish ordinary *Strickland* claims from presumed-prejudice cases, conflicts of interest, constructive denial of counsel, and government intrusion into the attorney-client relationship. The updated treatment addresses plea negotiations, investigation, expert assistance, mitigation, competency, sentencing, and appellate representation. The substitution-of-counsel chapter now more clearly distinguishes retained from appointed counsel and explains the trial court's duty to inquire into asserted conflicts or breakdowns in communication.

State collateral review. The edition further explains the importance of collateral proceedings for claims depending on evidence outside the appellate record. The California discussion has been updated to address Penal Code § 1172.6 and the narrowed standards for felony-murder liability, including the "major participant" and "reckless indifference to human life" requirements, the prima facie threshold, use of the record of conviction, and the prosecution's burden at an evidentiary hearing.

Additional revisions address jurisdiction and cognizability, custody and mootness, standing, coram nobis, summary dismissal, harmless error, sufficiency of the evidence, instructional error, judicial bias, speedy-trial rights, fair-warning claims, equal protection, arbitrary governmental action, and comments on a defendant's refusal to testify.

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