



which to file for habeas relief. Burns v. Morton, 134 F.3d 109, 111 (3d Cir. 1998). This grace period expired on April 23, 1997.

Mr. Bond did, in fact, attempt to seek relief under the PCRA on January 14, 1997, but his application was filed on the wrong form, and was notably incomplete: Mr. Bond failed to identify his criminal case or specify any grounds for relief. Someone in the Prothonotary's Office promptly notified Mr. Bond that his application could not be considered, and that it would not be docketed unless and until he filed a corrected application. Unfortunately, Mr. Bond took no further action until April 22, 1998, when he filed a second PCRA petition. The trial court dismissed that application as untimely on May 11, 1998. The Superior Court affirmed the dismissal on December 27, 1999, and the Pennsylvania Supreme Court denied allocatur on July 20, 2000.

On May 29, 2001, Mr. Bond filed the *pro se* Petition for Writ of Habeas Corpus which is now before this court. A magistrate judge has recommended that the petition be dismissed as untimely. In the interim, counsel was appointed for Mr. Bond, and an Amended Petition for Writ of Habeas Corpus was filed on June 14, 2002.

It is apparent, and undisputed, that the present action was filed more than four years after the AEDPA deadline, and must be dismissed as untimely unless there was a properly-filed

application for collateral relief pending in the state courts sufficient to toll the statute of limitations and render the May 29, 2001 habeas filing timely, or unless petitioner is entitled to equitable tolling of the limitations period.

I conclude that the magistrate judge has properly rejected both forms of tolling. Regardless of whether the rejection of petitioner's original application to the state court was or was not brought about by a properly-authorized official, there can be no doubt that the application was not docketed, and petitioner was advised that it would not be docketed. It follows that the application was not "properly filed" within the meaning of the AEDPA tolling provision. And, obviously, the application was not "pending" during any part of the relevant time-period. Therefore, statutory tolling is not available.

Being required to tender an application which alleged grounds for relief scarcely constitutes an "extraordinary circumstance" preventing petitioner from complying with the statutory deadline. And, as the magistrate judge has correctly pointed out, petitioner cannot be said to have acted with reasonable diligence. He waited more than a year before attempting to remedy the inadequacies of his first application for PCRA relief; his application to this court was filed approximately 18 months after the Superior Court had dismissed

his PCRA petition, and almost a full year after the Supreme Court denied allocatur.

For all of these reasons, I will approve the recommendation of the magistrate judge.

An Order follows.

