

Post-conviction Remedies
Law 8822
Professor O'Brien

There is no required text for this course. Professor O'Brien will excerpt cases and other materials for each class and post them to the class link on his faculty web page, <http://www.law.umkc.edu/faculty/obrien.htm>

I. Federalism and The Habeas Remedy, Part 1.

This class will explore the role that the Writ of Habeas Corpus plays in the enforcement of constitutional rights, and the tensions arising from resort to the Great Writ in the Jim Crow era.

Frank v. Mangum

Doug Linder's Famous Trials Web site –The Leo Frank case:

<http://www.law.umkc.edu/faculty/projects/ftrials/frank/frankmain.html>

Moore v. Dempsey

II. Federalism and the Habeas Remedy, Part 2.

Giving state prisoners a solid foothold for bringing their constitutional claims to federal courts via habeas corpus had a profound impact on the structure of post-conviction litigation in state and federal court.

Brown v. Allen

Case v. Nebraska

Kaiser v. Williams

III. The Exhaustion Doctrine

A convicted defendant cannot proceed directly to federal habeas corpus review without first invoking non-futile state remedies.

Rose v. Lundy

Rhines v. Weber

O'Sullivan v. Boerckle

IV. Procedural Bar: Independent, Adequate State Grounds

State courts have the right to control their own dockets and to require litigants to obey reasonable procedures, but there are limits to the ability of states to cut off federal review through procedural arbitrariness.

James v. Kentucky

Ford v. Georgia

Ake v. Oklahoma

V. Successive Petitions and Abuse of the Writ

Theoretically, prisoners get “one bite at the apple” when it comes to post-conviction review; repetitious habeas proceedings are discouraged.

Salinger v. Loisel
Fay v. Noia
McCleskey v. Zant
Stewart v. Martinez-Villareal

VI. Retroactivity

Teague v. Lane
Butler v. McKellar

VII. Fact-finding in Post-Conviction

Habeas Corpus is not an appeal; it is an independent cause of action about the constitutionality of a conviction and sentence. More often than not, such cases turn on issues of fact.

Townsend v. Sain
Blackledge v. Allison
Keeney v. Tamayo-Reyes

VIII. Safety Valves

Habeas Corpus is an equitable remedy. Invoking principles of equity, the Court has developed exceptions to issue-preclusion doctrines.

A. Cause-and-Prejudice

Wainwright v. Sykes
Amadeo v. Zant
Reed v. Ross

B. Miscarriage of Justice

Sanders v. United States
Kuhlman v. Wilson
Murray v. Carrier
Sawyer v. Whitley
Schlup v. Delo
House v. Bell

IX. Litigation Resources for Indigent Prisoners

A. The Right to Counsel

Evitts v. Lucey
Pennsylvania v. Finley
Murray v. Girratano
Coleman v. Thompson

B. Funds

Ake v. Oklahoma
Williams v. Taylor
McFarland v. Scott

X. The Death Penalty and Habeas Corpus

Movements to “reform” habeas corpus are driven by delays in the execution of death sentences.

Jim Liebman, *A Broken System*

A. Stays of Execution

Barefoot v. Estelle
Stokes v. Delo

B. AEDPA: Statutes of Limitations, Deference to State Decisions, Certificates of Appealability and Bars on Successive Petitions

Felker v. Turpin
Williams(Terry) v. Taylor
Williams (Michael) v. Taylor
Artuz v. Bennett
Slack v. McDaniel
Cullen v. Pinholster

C. State innovations

Canon v. Mullin
Whitmore v. Arkansas
Dawan v. Lockhart

XI. Other Post-Conviction Remedies

A. Executive Clemency

Woodard v. Ohio

Young v. Hayes

B. Post-decision motions

Gonzalez v. Crosby

C. Miscellaneous Procedures

A. DNA statutes and Innocence Protection

B. 28 U.S.C. sec. 1983.