Case No. S228137

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

JULIUS M. ROBINSON

Petitioner,

v.

G.W. LEWIS, Warden,

Respondent.

On Certified Question from the United States Court of Appeals
for the Ninth Circuit Pursuant to California Rule of Court 8.548
Ninth Circuit Case No. 14-15125

PETITIONER'S REPLY BRIEF

HEATHER E. WILLIAMS, Bar No. 122664
Federal Defender
* CAROLYN M. WIGGIN, Bar No. 182732
Assistant Federal Defender
801 I Street, Third Floor
Sacramento, California 95814
Telephone: (916) 498-5700
Facsimile: (916) 498-5710
E-mail: Carolyn_Wiggin@fd.org
Attorneys for Petitioner
JULIUS M. ROBINSON

Table of Contents

Table of Authorities ii

I. Introduction 1

II. Argument 2

A. Respondent's Argument Regarding New Timeliness Rules Is Not Relevant to the Certified Question or Mr. Robinson's Case. 2

B. Respondent Does Not Demonstrate that Under Existing California Law, the 66-Day Interval at Issue Would Give Rise to a Timeliness Bar. 4

C. Respondent's Proposed New Timeliness Requirements Are Out of Sync with Noncapital Habeas Corpus Rules and Realities. 7

1. Proposed 60-Day Time Limit to File a New Petition in the Court of Appeal 8

2. Proposed 10-Day Time Limit to File a New Petition for a Writ of Habeas Corpus or Petition for Review in the California Supreme Court 12

D. Respondent's Proposed New Structure for Habeas Corpus Litigation Would Leave Petitioners Vulnerable in Federal Court 16

III. Potential Reforms to Better Coordinate State and Federal Habeas Corpus Litigation. 18

IV. Conclusion 22

Table of Authorities

Federal Cases

Andrews v. Davis (9th Cir. 2015) 798 F.3d 759 16

Blake v. Baker (9th Cir. 2014) 745 F.3d 977,
cert. denied (2014) 135 S.Ct. 128 [190 L.Ed.2d 231] 6, 7

Carey v. Saffold (2002) 536 U.S. 214
[122 S.Ct. 2134, 153 L.Ed.2d 260] 5

Cullen v. Pinholster (2011) 563 U.S. 170
[131 S.Ct. 1388 179 L.Ed.2d 557] 3, 17

Duncan v. Walker (2001) 533 U.S. 167
[121 S.Ct. 2120, 2129, 150 L.Ed.2d 251] 4

Evans v. Chavis (2006) 546 U.S. 189
[126 S.Ct. 846, 163 L.Ed.2d 684] 5, 6, 19

Gonzalez v. Wong (9th Cir. 2011) 667 F.3d 965 17

Harrington v. Richter (2011) 562 U.S. 86
[131 S.Ct. 770, 787, 178 L.Ed.2d 624] 3

Robinson v. Lewis (9th Cir. 2015) 795 F.3d 926 ..... 5, 19

Stewart v. Cate (9th Cir. 2014) 757 F.3d 929 6

Federal Statutes

28 United States Code Section 2254 ..... 16, 17

Antiterrorism and Effective Death Penalty Act of 1996 3

State Constitutions

California Constitution, Article VI, Section 10 13

State Cases

Ex parte Swain (1949) 34 Cal.2d 300
[209 P.2d 793, 794] 11

In re Michael E. (1975) 14 Cal.3d 892
[123 Cal.Rptr. 103, 538 P.2d 231] 8

In re Robbins (1998) 18 Cal.4th 770
[77 Cal.Rptr.2d 153, 959 P.2d 311] 20, 21

State Statutes

California Penal Code, Section 1475 10

State Rules

California Rules of Court, rule 4.551 ..... 9, 10

California Rules of Court, rule 8.204 15

California Rules of Court, rule 8.304 11

California Rules of Court, rule 8.380 ..... 10, 11

California Rules of Court, rule 8.500 14

California Rules of Court, rule 8.504 15

Other Authorities

Justin F. Marceau, Challenging the Habeas Process Rather
Than the Result (2012) 69 Wash. & Lee L. Rev. 85 18

Matthew Seligman, *Harrington's Wake: Unanswered Questions on AEDPA's Application to Summary Dispositions*
(2012) 64 Stan. L. Rev. 469 14

Theresa Hsu Schriever, *In Our Own Backyard: Why California Should Care About Habeas Corpus*, 45 McGeorge L. Rev. 763 (2014) 18

I. Introduction

In his Answer Brief on the Merits, respondent does not claim there is any California case holding that dismissal on timeliness grounds is warranted when there is an interval of 66 days between the pendency of a lower court habeas corpus petition and the filing of a new petition in a higher court. Respondent cannot argue that in Mr. Robinson's case the Court of Appeal or this Court actually held that the intervals between the pendency of petitions were too lengthy.

Instead of grappling with California cases to determine how California law currently treats a 66-day interval between the pendency of two habeas corpus petitions, respondent proposes a new set of rules regarding what he terms the "re-filing" of habeas corpus petitions, that is the filing of a petition in a higher court that raises the same claims as a petition denied by a lower court. Respondent proposes that in the case of "re-filings," prisoners have 60 days after a petition is denied by the superior court to file a new petition in the Court of Appeal, and petitioners have 10 days after a petition is denied by the Court of Appeal to file a new petition in this Court.

As discussed below, respondent's argument is only addressed to what he believes the law *should* be, not what it is or what it was at the

time Mr. Robinson presented his habeas claims to California courts. In addition, the new scheme proposed by Respondent is unrealistic and ill-conceived because it ignores key aspects of the statutes and rules that govern California habeas corpus and appellate procedures. If this Court does choose to use this case to adopt new rules or presumptions, Mr. Robinson offers this Court suggestions for reforms that would promote clarity and efficiency while protecting a noncapital habeas corpus petitioner's ability to present post-conviction claims to the California and federal courts.

II. Argument

A. Respondent's Argument Regarding New Timeliness Rules Is Not Relevant to the Certified Question or Mr. Robinson's Case.

The certified question, as framed by this Court, is:

> When a California court denies a claim in a petition for writ of habeas corpus, and the petitioner subsequently files the same or a similar claim in a petition for writ of habeas corpus directed to the original jurisdiction of a higher court, what is the significance, if any, of the period of time between the earlier petition's denial and the subsequent petition's filing (66 days in this case) for the purpose of determining the subsequent claim's timeliness under California law?

The question clearly asks what the significance of a time period "is" "under California law," not what it should be under rules or

judicial opinions that have not yet been issued. While respondent references California precedent for the general proposition that habeas corpus petitions should be filed without undue delay,[1] most of the brief focuses on the new rules he proposes.

There is a reason the certified question focuses on existing California law, not a future scheme Mr. Robinson and the California courts could not have known about when Mr. Robinson was presenting his habeas claims to the California appellate courts in 2012. Under federal habeas corpus law, particularly as modified by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), a state court's adjudication of a claim is given special deference. As the United States Supreme Court has noted, in enacting the AEDPA, Congress demonstrated its "intent to channel prisoners'claims first to the state courts." (*Cullen v. Pinholster* (2011) 563 U.S. 170, 182 [131 S.Ct. 1388, 1398–99, 179 L.Ed.2d 557]). The AEDPA is "designed to confirm that state courts are the principal forum for asserting constitutional challenges to state convictions." (*Harrington v. Richter* (2011) 562 U.S. 86, 103 [131 S.Ct. 770, 787, 178 L.Ed.2d 624]. *See also Duncan v. Walker* (2001) 533 U.S. 167,

[1] See Answer Brief, pp. 1, 7-9.

181 [121 S.Ct. 2120, 2129, 150 L.Ed.2d 251] ("AEDPA's clear purpose [is] to encourage litigants to pursue claims in state court prior to seeking federal collateral review.")). Given the centrality of the state court's adjudication of a claim, a federal court should focus on how a state court actually ruled on a claim or petition, not on the federal court's view of how it should have ruled on the claim.

In the present case, neither the Court of Appeal nor this Court ruled that Mr. Robinson's petitions were untimely. As discussed in the Opening Brief, there does not appear to be any support for an argument that under existing California law, 66 days is a "substantial delay" between the pendency of a petition denied by a lower court and a new petition raising the same claims in a higher court. This Court should answer the certified question on the basis of existing California law and the history of Mr. Robinson's habeas litigation, not on the basis of a timeliness scheme that might be created in the future.

B. Respondent Does Not Demonstrate that Under Existing California Law, the 66-Day Interval at Issue Would Give Rise to a Timeliness Bar.

Respondent asserts that the petition Mr. Robinson filed in the Court of Appeal was untimely. (Answer Brief, p. 19). It states that Mr. Robinson "knew that not filing 'within 60 days' risked an

untimeliness finding in federal court." (Answer Brief, p. 19). In support of this claim, respondent cites footnote 10 of *Robinson v. Lewis* (9th Cir. 2015) 795 F.3d 926. That footnote actually holds that Mr. Robinson (1) waived an argument in favor of equitable tolling by failing to raise it below, and (2) that Mr. Robinson, like any federal petitioner litigating claims after *Carey v. Saffold*[2] and *Evans v. Chavis*[3] were decided in 2002 and 2006, was deemed on notice that federal courts would examine the timeliness of his state petitions. (*Robinson*, 795 F.3d at 935 n. 10). The Ninth Circuit did not suggest that Mr. Robinson was on notice that a federal court would treat 66 days between the pendency of two California habeas petitions as so lengthy that the second petition was untimely under California law. In fact, prior to March 26, 2012, when Mr. Robinson filed his habeas corpus petition in the California Court of Appeal, the United States Court of Appeals for the Ninth Circuit had never held that an interval of 66-days between two petitions filed in California courts was

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[2] *Carey v. Saffold* (2002) 536 U.S. 214 [122 S.Ct. 2134, 153 L.Ed.2d 260].

[3] *Evans v. Chavis* (2006) 546 U.S. 189 [126 S.Ct. 846, 163 L.Ed.2d 684].

"substantially longer" than the 30-60 days most states give a prisoner to file a notice of appeal in state court. (*Chavis*, 546 U.S. at 200).[4]

Respondent also argues that even without retroactive application of the new noncapital habeas timeliness scheme he proposes, Mr. Robinson "did not file the Court of Appeal petition under any fair understanding [of] the pre-existing general 'as promptly as the circumstances allow' language." (Answer Brief, p. 20). After making this assertion, respondent fails to grapple with or distinguish any of the cases cited in the Opening Brief that show under California law, 66 days, and longer, between denial of a petition by a superior court and the filing of a petition in the Court of Appeal has not been deemed "substantial delay" by any California court.

Rather than looking at California law and cases, respondent talks about "[t]he Ninth Circuit's quite generous 'good cause' standard" (Answer Brief, p. 20 (citing *Blake v. Baker* (9th Cir. 2014) 745 F.3d 977, 982, *cert. denied* (2014) 135 S.Ct. 128 [190 L.Ed.2d 231])). Respondent's reliance on *Blake* is misplaced for two separate

[4] In *Chavis*, the United States Supreme Court explicitly did not create a bright line test. It was only after Mr. Robinson had litigated his claims in state court that the Ninth Circuit, in contravention of this authority, created a bright line rule that required any filing after 60 days to be explained by good cause. *Stewart v. Cate* (9th Cir. 2014) 757 F.3d 929, 935–36.

reasons. First, the Ninth Circuit asked this Court to answer the question at issue so that this Court could describe *California* law, but *Blake* has to do with a question of federal law. Second, *Blake* has nothing to do with California's timeliness rules for noncapital habeas petitions. Instead it addresses the "good cause" standard a federal petitioner must meet when asking the federal court to stay litigation of the federal petition while the petitioner returns to state court to exhaust an unexhausted claim. (*Blake*, 745 F.3d at 980).

Respondent cannot cite a single case in which a California court held that an interval of 66 days between the pendency of a superior court and appellate court habeas corpus petition constitutes "substantial delay." Respondent has failed to demonstrate that under California law, the petition Mr. Robinson filed in the California Court of Appeal was untimely.

C. Respondent's Proposed New Timeliness Requirements Are Out of Sync with Noncapital Habeas Corpus Rules and Realities.

Respondent devotes most of the Answer Brief to a proposal for new rules regarding the timeliness of noncapital habeas corpus petitions. While respondent does not suggest a deadline for the filing of an initial habeas corpus petition in the Superior Court, he suggests

a 60-day time limit for filing a subsequent petition in the Court of Appeal, and a 10-day time limit for filing a subsequent petition in this Court. For the reasons discussed below, these proposals are not realistic or wise.

1. Proposed 60-Day Time Limit to File a New Petition in the Court of Appeal.

Respondent states that the burden on a prisoner of presenting a claim that was rejected by the Superior Court to the Court of Appeal is "trivial. All he need do (and should do) is send the Court of Appeal a copy of what he filed in Superior Court." (Answer Brief, p. 11). Respondent claims that new briefing in support of the claims is "wasteful."[5] He further states that the effort to file a new, original petition in the Court of Appeal "is about as much as needed to file a

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[5] In support of this assertion, Respondent relies on *In re Michael E.* (1975) 14 Cal.3d 892, 193 fn. 15 [123 Cal.Rptr. 103, 538 P.2d 231]. (Answer Brief, p. 11). In *Michael E.*, this Court faulted an attorney for not seeking a "hearing" in this Court after an unfavorable published opinion was issued by the Court of Appeal but instead filing a new original petition in the California Supreme Court. *Michael E.* has no relevance to noncapital habeas petitioners who have lost in Superior Court and wish to proceed to the Court of Appeal because, as discussed in the Opening Brief, they cannot appeal or petition for review to the Court of Appeal. The only way they can present claims to the Court of Appeal is by filing a new original petition.

notice of appeal, an act normally due within 60 days." (Answer Brief, p. 12).

Respondent's argument in support of a 60-day time limit for filing new petitions in the Court of Appeal ignores the rules and realities surrounding such filings. First, although a petition filed in the Superior Court and one filed in the Court of Appeal may contain the same claims, much can happen in the Superior Court that necessitates new and different briefing in the Court of Appeal. For example, the Superior Court may hold an evidentiary hearing and make findings of fact. (Cal. Rules of Court, rule 4.551, subd. (f)). Even if the Superior Court denies a petition without taking that step, any Superior Court order denying a petition "must contain a brief statement of the reasons for the denial. An order only declaring the petition to be 'denied' is insufficient." (Cal. Rules of Court, rule 4.551, subd. (g)).

It would be reckless and unwise for a petitioner who loses in the Superior Court and then proceeds to the Court of Appeal not to research, and brief, his or her new petition in light of any new factual findings given by the Superior Court. Even if the Superior Court made no factual findings, it would have to give reasons for denying a

petition, and the petitioner would want to research the law regarding the bases for denial and attempt to argue that denial was improper. Moreover, under governing statutes, the new petition is not supposed to be merely a photocopy of the petition that was unsuccessful in the Superior Court. The petition filed in the Court of Appeal must include "a brief statement" explaining all prior applications for habeas corpus relief and "must contain of all proceedings had therein, or in any of them, to and including the final order or orders made therein, or in any of them, on appeal or otherwise." (Cal. Pen. Code, § 1475). Likewise form MC-275, which unrepresented petitioners are required to use,[6] includes sections in which the petitioner must describe previous habeas petitions and how they were decided.[7] Obviously a photocopy of the petition that was filed in the Superior Court cannot include information explaining what eventually happened in those proceedings. The fact that some California prisoners only manage to file a photocopy of their Superior Court petition, thus failing to comply with California Penal Code Section 1475 and the requirements of Form MC-275, does not mean that this Court should

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[6] Cal. Rules of Court, rules 4.551 and 8.380.

[7] See Judicial Council Form MC-275, "Petition for Writ of Habeas Corpus," Questions 12-14.

create a deadline that assumes all petitioners will fail to comply with the statute and form.

Contrary to respondent's assertion, filing a new petition in the Court of Appeal is not as simple as filing a Notice of Appeal. (Answer Brief, p. 12). A Notice of Appeal is an extremely brief document that need not contain a statement of claims, briefing, or even a reference to evidence in support of the claims. (Cal. Rules of Court, rule 8.304 (notice of appeal in criminal case adequate if it identifies the particular judgment or order being appealed)). If timely filed, it initiates an appeal whether or not the issues that will someday be presented in the appeal have merit.

By contrast, an original petition filed in the Court of Appeal must include answers to numerous questions posed in the six-page MC-275 form. Each claim must be supported by a statement of facts and legal authority. (MC-275, Questions 6-7). As discussed above, the answers must include information about the Superior Court habeas corpus proceedings. An original petition and a copy of the supporting documents must be filed in the Court of Appeal. (Cal. Rules of Court, rule 8.380, subd. (c)). If the petition is defective or does not state claims with adequate specificity, it will be dismissed or denied. (*See*,

e.g., *Ex parte Swain* (1949) 34 Cal.2d 300, 302 [209 P.2d 793, 794] (petition denied based on deficient pleading)). Preparation of the complete, adequate petition and attachments involves significantly more effort than preparation of a Notice of Appeal. For this reason this Court should not create a deadline of 60 days from the date a Superior Court petition is denied for filing of a new petition in the Court of Appeal.

2. Proposed 10-Day Time Limit to File a New Petition for a Writ of Habeas Corpus or Petition for Review in the California Supreme Court.

As for the filing of a new petition in this Court following denial of a petition in the Court of Appeal, respondent proposes a deadline of only ten days from the date the Court of Appeal denied the petition. (Answer Brief, pp. 12-18). Again, the argument ignores the fact that the California Penal Code and form MC-275 require the petitioner to describe the proceedings in the Court of Appeal, so simply photocopying the petition that was filed in the Court of Appeal is not an option that complies with the governing statute.

The bulk of respondent's argument, however, is not that petitioners can realistically file new petitions in this Court within ten

days of denial of a prior petition, but that petitioners should not be allowed to file petitions for writs of habeas corpus in this Court. Respondent states that "no sound policy" supports allowing noncapital habeas corpus petitioners to file original petitions in this Court. (Answer Brief pp. 12-13). The fact that this Court's jurisdiction over such petitions is guaranteed in the California Constitution[8] apparently does not count as a policy that favors giving prisoners a realistic opportunity to prepare and file such petitions. Respondent urges that "[t]his Court should confirm that noncapital petitioners are not to resort to original petitions in this Court if a petition for discretionary review in this Court (after review in the superior court and Court of Appeal) could have been filed instead." (Answer Brief, p. 16).

Respondent acknowledges that his proposal requires petitioners to file petitions for review in this Court ten days after a decision by the Court of Appeal denying a petition. (Answer Brief, pp. 16-17). According to respondent, this is justified by the "extreme ease" of filing of petition for review and the fact that the petition for review is unlikely to be meritorious. (Answer Brief, p. 17).

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[8] Cal. Const., art. VI, § 10.

Respondent's argument that a California prisoner should file a petition for review after a habeas corpus petition is denied by the Court of Appeal, rather than exercising his or her right to file a new habeas corpus petition in this Court, ignores both the purpose and complexity of petitions for review. This Court does not grant a petition for review because the Court of Appeal reached the wrong conclusion in a case; it grants a petition for review

> (1) When necessary to secure uniformity of decision or to settle an important question of law;
> (2) When the Court of Appeal lacked jurisdiction;
> (3) When the Court of Appeal decision lacked the concurrence of sufficient qualified justices; or
> (4) For the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order.

(Cal. Rules of Court, rule 8.500, subd. (b)). A California prisoner may have a perfectly meritorious ground for habeas corpus relief that does not meet any of those criteria.

In addition, in nearly all cases the California Court of Appeal denies a habeas corpus petitions with no explanation at all. (Matthew Seligman, *Harrington's Wake: Unanswered Questions on AEDPA's Application to Summary Dispositions* (2012) 64 Stan. L. Rev. 469, 506 (from 2006 through 2009, the California Court of Appeal disposed of 97.43 percent of habeas corpus petition with a summary

denial)). It will be impossible for prisoners to argue that the Court of Appeal's decision falls within one of these criteria when the Court of Appeal has not explained its reason for denying the petition.

Petitions for review would not be easy for prisoners to prepare. The petitions must include tables of contents and authorities and properly constructed legal headings, both of which would be difficult to produce without legal training and word processing software. (Cal. Rules of Court, rule 8.504, subd. (a) (incorporating Cal. Rules of Court, rule 8.204)). In addition, while attorneys typically have appellate briefs in a case saved on their computers and available to revise into a petition for review, prisoners typically use handwriting or typewriters to prepare legal documents. Respondent expects these prisoners to be able to research and handwrite a petition for review, with all of its formal requirements, in ten days. That is completely unrealistic and would essentially mean that prisoners could not present their claims to this Court. This Court should not adopt respondent's unrealistic and unfair proposal.

D. Respondent's Proposed New Structure for Habeas Corpus Litigation Would Leave Petitioners Vulnerable in Federal Court.

Respondent suggests that state prisoners could file original habeas corpus petitions in this Court within ten days of denial of a petition by the Court of Appeal if they were allowed to "just file a one-page letter asking for review of the Court of Appeal's denial of relief." (Answer Brief, p. 18). It is important to note that that the California Penal Code and the California Rules of Court do not allow for this type of letter as a stand-in for a habeas corpus petition, nor did they in 2012. In addition, such a letter may not satisfy federal habeas corpus requirements to exhaust remedies in state court before proceeding to federal court.[9]

Federal exhaustion requires that a petitioner "fairly present" his or her claims to the highest state court in which the claims can be considered. The presentation must include a statement of facts that entitle the petitioner to relief and citations to either federal or state cases involving the legal standard for a federal constitutional violation. *Andrews v. Davis* (9th Cir. 2015) 798 F.3d 759, 789. The

[9] 28 United States Code Section 2254(b) provides that, generally, a federal court cannot grant a habeas corpus petition brought by a state prisoner unless the prisoner has "exhausted the remedies available in the courts of the State."

type of short letter respondent describes, which would only ask this Court to review a lower court decision, may not satisfy federal exhaustion requirements.

Moreover, when federal courts make an initial determination as to whether a state court denied a claim on grounds that were contrary to Supreme Court precedent, an unreasonable application of the law, or involved unreasonable finding of facts,[10] the courts will only look at the record that was before the state court that adjudicated the claim. (*Cullen*, 563 U.S. at 181; *Gonzalez v. Wong* (9th Cir. 2011) 667 F.3d 965, 979). Generally, claims that do not make it past this threshold cannot succeed in federal court, so it is critical that the entire record supporting a claim be presented to a state court when a claim is exhausted in state court. It is not clear that the letter described by respondent would satisfy this requirement, and thus state prisoners who attempt such a filing in lieu of filing a true habeas corpus petition supported by evidence in this Court may find federal courts unable to consider relevant evidence that supports a claim.

[10] See 28 U.S.C. § 2254(d).

Because of the risks respondent's one-page letter proposal would pose to state prisoners when they reach federal court, Mr. Robinson strongly discourages this Court from adopting it.

III. Potential Reforms to Better Coordinate State and Federal Habeas Corpus Litigation.

The certified question only requires an answer that describes California law; this Court need not make prospective changes to the law. However, if this Court does use this case as an opportunity to change California law or court practices, it should ensure that it does not diminish the role of the writ of habeas corpus in California to act as "as a safeguard against the injustice of depriving an innocent person of his life or liberty; a prisoner's last chance to have his sentence overturned, or better still, to prove his innocence." Theresa Hsu Schriever, *In Our Own Backyard: Why California Should Care About Habeas Corpus*, 45 McGeorge L. Rev. 763, 765-66 (2014) (internal quotations and citations omitted). Indeed, in light of the curtailment of federal courts' ability to overturn a state court conviction or sentence under the AEDPA, state courts have become "the last, best hope for constitutional review of one's conviction." *Justin F. Marceau*, Challenging the Habeas Process Rather Than the

Result (2012) 69 Wash. & Lee L. Rev. 85, 89. Thus the California writ of habeas corpus should not be weakened simply for the purpose of accommodating federal habeas corpus procedures. However, there are measures this Court could take that would both could assist federal courts and ensure that California prisoners have a meaningful opportunity to present their habeas corpus claims to both state and federal courts.

One possible reform would be to clarify that when a petition is denied without a ruling that it is untimely, federal courts should presume the California court ruled the petition was timely. The reason federal courts have invested "substantial judicial resources" (*Robinson*, 795 F.3d at 931) into determining whether noncapital habeas corpus petitions were timely filed in the California court system is that usually state court petitions are denied by the California Court of Appeal and this Court without any ruling or citation regarding timeliness. The United States Supreme Court held in *Evans v. Chavis* that a silent denial of a petition by a California court, or even a ruling that specifies a petition was denied "on the merits," cannot be construed by a federal court as an implicit ruling that a petition was timely. (*Chavis*, 546 U.S. at 197–98).

While the federal courts are not currently allowed to presume that a petition denied by a California court was deemed timely, this Court could now hold that when a California court does not rule or signal through citations that a petition is untimely, that indicates that it has determined the petition is timely. This Court has already held that when a respondent argues that a claim in a petition is untimely but this Court disposes of the petition without imposing a timeliness bar, "this signifies that we have considered respondent's assertion and have determined that the claim or subclaim is not barred" on timeliness grounds. (*In re Robbins* (1998) 18 Cal.4th 770, 815 fn. 34 [77 Cal.Rptr.2d 153, 959 P.2d 311]). This Court could now announce that as to every noncapital habeas corpus petition, the California courts will automatically consider whether the petition is timely, and if a court disposes of a petition without explicitly ruling or signaling through citations the petition is untimely, that signifies the court has considered the timeliness question and decided the petition is timely.

Another option this Court could consider is announcing prospective presumptions regarding the timely filing of noncapital habeas corpus petitions. This Court's policies regarding the presumption of timeliness for petitions filed within certain deadlines

in the capital context has provided prisoners and their counsel with useful guidance and undoubtedly reduced litigation over the timeliness of capital habeas corpus petitions. If this Court does take this opportunity to announce such a policy for future cases, it should bear in mind that—in contrast to capital petitions—the vast majority of noncapital habeas corpus petitions are prepared and filed by indigent prisoners with limited education, training, and access to legal resources. Any prospective timeliness standards should also take into account the fact that these prisoners are entirely reliant on the prison mail system and the diligence of their appellate counsel to learn when key triggering events take place in their case. Moreover, when a noncapital petitioner has a petition denied by one California court and then prepares his or her next original petition to be filed in the next highest California court, he or she will want to conduct legal research or obtain additional evidence necessary to challenge the reasoning that supported the loss or dismissal of the petition in the lower court.

If this Court chooses to adopt a policy, Mr. Robinson urges this Court to announce that intervals of at least six months between the pendency of petitions are presumptively reasonable, and that a petitioner can always show unique factors in his or her circumstances

that justify longer intervals between the filing of petitions. In addition, California courts should continue to recognize an exception to the timeliness requirement when trial or direct review proceedings were fundamentally unfair and led to a wrongful conviction, the petitioner is actually innocent, or the petitioner was convicted or sentenced under an invalid statute. (*Robbins*, *supra*, 18 Cal.4th at pp. 780-81).

IV. Conclusion

For the foregoing reasons, and the reasons presented in the Opening Brief, the Court should answer the certified question as follows:

When a California court denies a petition for a writ of habeas corpus, and the petitioner subsequently files a habeas corpus petition containing the same or similar claims in a higher California court, the time period between the earlier petition's denial and filing of the next petition is relevant to the question of whether the petition was filed after "substantial delay." If "substantial delay" did occur, the court will consider whether (a) there is good cause for the delay, or (b) an exception to the bar of untimeliness applies. A 66-day period between

the date a lower court petition is denied and a petition raising the same claim is filed in a higher court is not a "substantial delay."

Dated: October 4, 2016

Respectfully submitted

HEATHER E. WILLIAMS
Federal Defender

CAROLYN M. WIGGIN
Assistant Federal Defender

Attorneys for Petitioner
JULIUS M. ROBINSON

CERTIFICATE OF WORD COUNT

I, Carolyn M. Wiggin, counsel for petitioner, hereby certify pursuant to rule 8.520, subdivision (c), of the California Rules of Court that petitioner's reply brief on the merits in the above-referenced case consists of 5,567 words as indicated by the software program used to prepare the document.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 4, 2016, at Sacramento, California.

CAROLYN M. WIGGIN

DECLARATION OF SERVICE BY MAIL

Re: Robinson v. Lewis, No. S228137

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is: 801 I Street, Third Floor, Sacramento, California 95814.

On October 4, 2016, I served a true copy of the attached Petitioner's Reply Brief on Respondent G.W. Lewis by placing same in an envelope addressed as follows:

David Andrew Eldridge
Office of the Attorney General
P.O. Box 944255
Sacramento, California 94244-2550

The envelope was then sealed and deposited in the United States Mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on October 4, 2016, at Sacramento, California.

Katina Whalen