

The Court concludes that Kimball's claim that the Law Court's decision deprived him of earned "good time" is barred by the statute of limitations set forth in recent amendments to habeas corpus law. On April 24, 1996 the President signed into law the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996). Section 101 of the Act amended 28 U.S.C. § 2244 to provide a one-year period of limitation for the filing of an application for a writ of habeas corpus by a person in custody pursuant to the judgment of state court. 28 U.S.C. §2244(d)(1).

In the case at bar, the relevant starting date for the purpose of calculating the statute is "that date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence." 28 U.S.C. §2244(d)(1)(D). That date would be the day the Supreme Judicial Court decided the case, or February 27, 1985. The current petition was filed on February 27, 1998, thirteen years after the court decided the case. The petition is untimely under the law. The Court thus recommends that Kimball's petition be denied without a hearing because it is barred by the statute of limitations.

Conclusion

For the foregoing reasons, I hereby recommend that the Court **DENY WITHOUT AN EVIDENTIARY HEARING** the petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 as untimely under 28 U.S.C. §2244(d)(1).

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the

filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

Eugene W. Beaulieu
United States Magistrate Judge

Dated on March 13, 1998.