

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

<b>IVAN TELEGUZ,</b>	)	
	)	
Petitioner,	)	Case No. 7:10CV00254
	)	
v.	)	<b>OPINION AND ORDER</b>
	)	
<b>LORETTA KELLY, WARDEN,</b>	)	By: James P. Jones
<b>SUSSEX I STATE PRISON,</b>	)	United States District Judge
	)	
Respondent.	)	

*Elizabeth Peiffer, Virginia Capital Representation Resources Center, Charlottesville, Virginia, and Matthew C. Stiegler, Philadelphia, Pennsylvania, for Petitioner; Katherine B. Burnett, Senior Assistant Attorney General of Virginia, Richmond, Virginia, for Respondent.*

In this habeas matter, in which the state prisoner is under sentence of death, he has moved for leave to withdraw his petition for a writ of habeas corpus, so that he might have an addition period of time to file a new petition. The motion will be denied.

Ivan Teleguz was sentenced to death in early 2006 by a Virginia court for a murder for hire that occurred in 2001. His conviction and sentence were upheld on direct appeal, *Teleguz v. Commonwealth*, 643 S.E.2d 708 (Va. 2007), *cert. denied*, 552 U.S. 1191, *petition for rehearing denied*, 552 U.S. 1332 (2008), and his state habeas petition was dismissed on January 15, 2010, *Teleguz v. Warden of Sussex I*

*State Prison*, 688 S.E.2d 865 (Va. 2010), *petition for rehearing denied*, Rec. No. 080760 (Apr. 22, 2010). On April 29, 2010, the state trial court set his execution date for June 21, 2010.

On June 16, 2010, this court granted motions filed on Teleguz's behalf and stayed his pending execution and appointed counsel for him in anticipation of a federal petition for habeas corpus. By order entered July 1, 2010, the court directed that the federal habeas petition be filed no later than September 14, 2010. On September 13, 2010, on motion of the petitioner, the filing date was extended to October 14, 2010. A 205-page Petition for a Writ of Habeas Corpus was filed by Telguz's counsel on that day.

Counsel for the petitioner now moves the court to vacate the September 13 order and allow him to withdraw his petition just filed. The argument made is that the court should not require him to file any petition before the applicable statute of limitations runs, which the petitioner says will not be until February 21, 2011. *See* 28 U.S.C.A. 2244(d) (West 2006) (fixing one-year period of limitations in federal habeas cases).

As I have previously held in another capital habeas case, this court has the power to require a habeas petitioner to file before the expiration of the limitations period once the petitioner has, as here, invoked the jurisdiction of the court. *Bell v.*

*True*, 356 F. Supp. 2d 613, 614-15 (W.D. Va. 2005). The petitioner asserts no ground for a further extension of time not previously submitted and ruled upon. The deadline set by the court in its order of September 13 properly balanced the petitioner's need for adequate pre-petition preparation with the need for prompt and efficient administration of justice. *See id.*

Accordingly, for the reasons stated it is **ORDERED** that Petitioner's Motion to Vacate Order Requiring Premature Filing of Petition for Writ of Habeas Corpus (ECF No. 30) is DENIED.

ENTER: October 19, 2010

/s/ James P. Jones  
United States District Judge