



the court require Lentz to file his habeas petition within thirty days, and Lentz's response to this request.

The Antiterrorism and Effective Death Penalty Act ("AEDPA") applies a one-year period of limitations to habeas corpus petitions by state prisoners. 28 U.S.C.A. § 2244(d) (West Supp. 2004). Lentz argues that he should have the remainder of this period, or until March 1, 2005, to actually file his petition in this court.<sup>1</sup> However, Lentz has already invoked the jurisdiction of this court and the court thus has the power and responsibility to administer this litigation. While it is true that Lentz's looming execution date required him to seek the court's protection before the one-year period had elapsed, it is often the case that practicalities prompt a claimant to file a legal action long before the statute of limitations might run. In these circumstances, Lentz is no different from other litigants. *See Dowthitt v. Johnson*, No. H-98-3282, 1998 WL 1986954, at \*1 (S.D. Tex. Dec. 2, 1998) (holding that AEDPA's one-year period of limitations does not support a delay of filing of habeas petition by capital defendant).

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<sup>1</sup> Lentz's judgment was actually final in 2001, when the Supreme Court denied certiorari to his direct appeal. *Lentz v. Commonwealth*, 544 S.E.2d 299 (Va.), *cert. denied*, 534 U.S. 1003 (2001). However, the time during which his state post-conviction review was pending is excluded from the period of limitations. 28 U.S.C.A. § 2244(d)(2).

Lenz's appointed counsel has alternatively requested additional time to file the petition because of her obligations to another client. Under the circumstances, I will set the deadline for the petition for August 30, 2004, sixty days after this court stayed Lenz's execution.

For the foregoing reasons, it is **ORDERED** that Lenz must file his petition for a writ of habeas corpus no later than August 30, 2004.

ENTER: July 12, 2004

/s/ JAMES P. JONES  
Chief United States District Judge