

INTRODUCTION TO HABEAS PRACTICE

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AGENDA

- What is habeas corpus?
- What are some defining features of post-conviction habeas practice?
- How is habeas practice in Puerto Rico unique?
- How do you get started with habeas cases?

WHAT IS HABEAS?

“The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty, and they understood the writ of habeas corpus as a vital instrument to secure that freedom.”

— *Boumediene v. Bush*, 553 U.S. 723, 739 (2008).

Habeas corpus has been characterized as “[a] civil, appellate, collateral, equitable, common law, and statutory procedure.”

—I Federal Habeas Corpus Practice and Procedure § 2.2

FEDERAL HABEAS CORPUS

Trial/Direct Appeal

U.S. Supreme Court

State Appellate Court
Direct Review
(Automatic Review)

Trial Court

Post-Conviction

U.S. Supreme Court

State Supreme Court

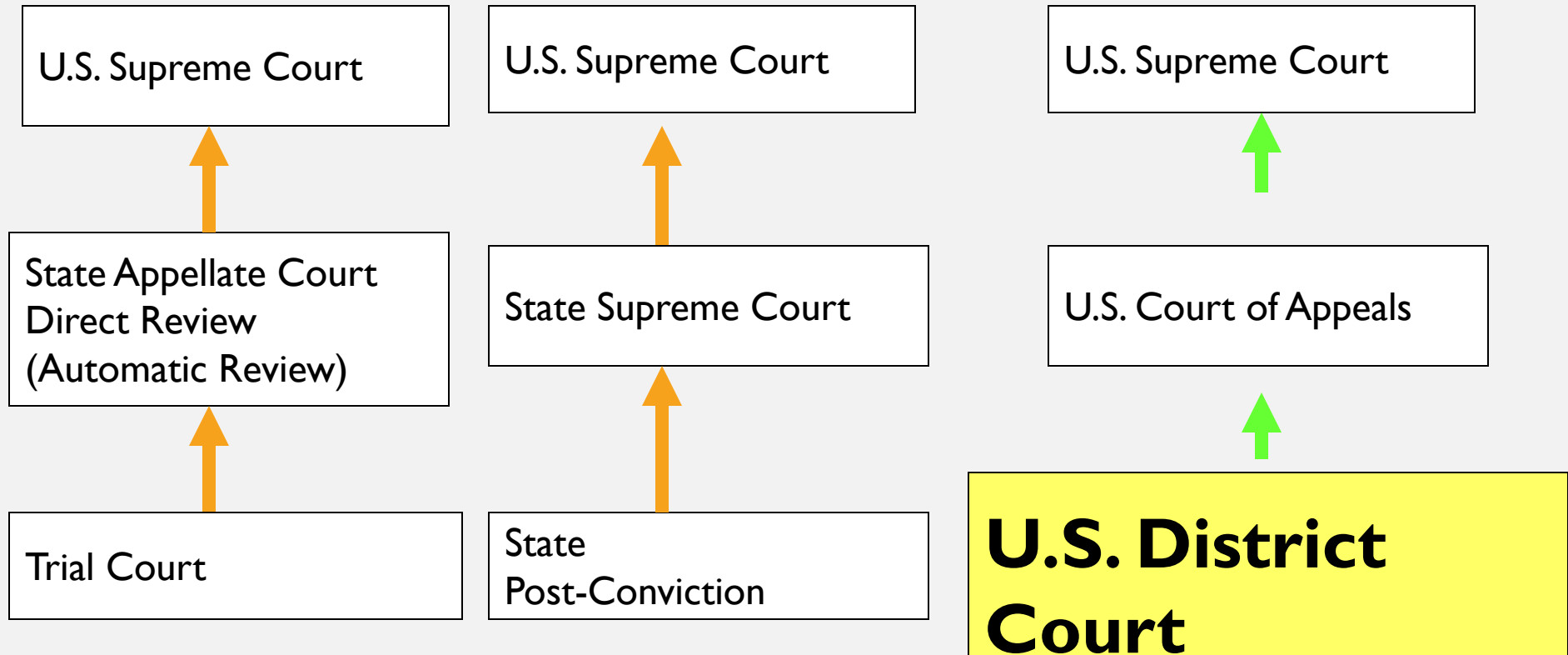
State
Post-Conviction

Federal Courts

U.S. Supreme Court

U.S. Court of Appeals

**U.S. District
Court**



NARROWING THE SCOPE

Statutory provisions

- 28 U.S.C. § 2241
- 28 U.S.C. § 2255
- **28 U.S.C. § 2254**

Procedural postures

- Pre-trial
- Transfer mechanism
- Non-conviction related
- **Post-conviction**

THE 28 U.S.C. § 2254 STANDARD

(d) An application for a writ of habeas corpus ... shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

- **(1)** resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
- **(2)** resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

REQUIREMENTS FOR RELIEF

- Custody: 2254(a)
- Exhaustion: 2254(b)(1)
- Timeliness: 2244(d)

CUSTODY REQUIREMENT

- “In custody” – *at time of filing*
- Jurisdictional
- Includes: physical, probation, parole
- Not: monetary fines, restitution

EXHAUSTION - 28 U.S.C. § 2254

(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

EXHAUSTION - 28 U.S.C. § 2254

- State court remedies
 - CFI → TA → PR S. Ct.
- Federalizing Claims
- Exceptions:
 - Actual Innocence, Stay, Waiver

TIMELINESS - 28 U.S.C. § 2254(D)

One-year limitations period
from latest of four dates:

TIMELINESS - 28 U.S.C. § 2254

(d)(I)(A) expiration of time for **direct review**

(d)(I)(B) removal of “**impediment**” that had prevented the filing of the petition

(d)(I)(C) recognition of a **new constitutional right**

(d)(I)(D) **factual discovery** giving rise to a new claim

TIMELINESS - 28 U.S.C. § 2254(D)

Statutory Tolling
Equitable Tolling
Actual Innocence

TIMELINESS - 28 U.S.C. § 2254(D)

Statutory Tolling:

One-year clock **pauses** while **properly filed** state PCR is pending.

TIMELINESS - 28 U.S.C. § 2254(D)

Extraordinary Circumstances

+

Diligence

=

Equitable Tolling

TIMELINESS - 28 U.S.C. § 2254(D)

Actual Innocence Gateway:

- New, reliable evidence
- No reasonable juror would convict

HABEAS PRACTICE IN PUERTO RICO

Record and Language Issues:

- PR Courts' Official Language: Spanish
- DPR: English (48 U.S.C. § 864)

HABEAS PRACTICE IN PUERTO RICO

Record and Language Issues:

- **Delays** in obtaining **record** and **certified translations**
- Burden on **respondents** to lodge usable record

Ramos Cruz v. Emanuelli-Hernández, 677 F. Supp. 3d 47 (D.P.R. 2023) (Besosa, J.) (“[T]he respondents shoulder the burden of submitting certified English translations of the relevant transcripts.”); see Habeas Rule 5.

HABEAS PRACTICE IN PUERTO RICO

Morales-Feliciano Conditions

- Civil rights action addressing chronic, unconstitutional conditions in PR prisons.
- Findings: systemic overcrowding, lack of medical care, physical abuse, etc.

HABEAS PRACTICE IN PUERTO RICO

Morales-Feliciano Conditions

- Legal-access barriers = extraordinary circumstances
- Research client's facility (Lexis, docket)
- When visiting client, ask to see facility, prison library, etc.

GETTING STARTED

- Meeting the client
- Gathering records
- Organizing the file
- Investigation
- Issue-spotting

ISSUE SPOTTING: COMMON HABEAS CLAIMS

- Ineffective assistance of counsel (*Strickland*)
- Withholding evidence (*Brady*)
- Presenting false evidence (*Napue*)
- Discrimination in jury selection (*Batson*)
- Judicial bias
- Jury misconduct

HABEAS PRACTICE IN PUERTO RICO: MAJOR CASES

- **Cruz-Berríos v. Borrero,**

No. 14-cv-1232 (ADC/SCC), 2020 WL 12814753

- **Núñez Pérez v. Rolón Suárez,**

No. 19-cv-1555, 618 F. Supp. 3d 49 (D.P.R. 2022) (WGY), aff'd on other grounds sub nom., *Escobar-Pabón*, 133 F.4th 33 (1st Cir. 2025)

- **Ramos-Cruz v. Emanuelli,**

No. 20-cv-1589, 2024 WL 4403699 (FAB)

RESOURCES

- [Rules Governing Section 2254 Cases and Section 2255 Proceedings for United States District Courts](#)
- Federal Habeas Corpus Practice and Procedure (available on Lexis)
- [Federal Habeas Corpus: A Legal Overview](#), Congressional Research Service, Oct. 1, 2024.

RESOURCES

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