

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 13-2242 & 14-3421

CARNELL GIBBS,
Appellant

v.

GREG BARTKOWSKI; ATTORNEY GENERAL NEW JERSEY;
CHARLES WARREN

On Appeal from the United States District Court
for the District of New Jersey
District Court No. 1-11-cv-01137
District Judge: The Honorable Noel L. Hillman

Submitted Under Third Circuit L.A.R. 34.1(a)
April 10, 2015

Before: RENDELL, HARDIMAN, and VANASKIE, *Circuit Judges*.

JUDGMENT ORDER

Appellant Carnell Gibbs filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the United States District Court for the District of New Jersey on February 9, 2011. In an order dated March 18, 2013, the District Court dismissed that petition as time-barred under 28 U.S.C. § 2244(d)(1)(A). We granted a certificate of appealability to address whether the limitations period on Gibbs's petition should have been tolled between January 9, 2008, when the New Jersey Superior Court, Appellate

Division, began considering the merits of Gibbs's initially untimely appeal of the dismissal of his state-court collateral-review application, and October 7, 2010, when the New Jersey Supreme Court denied Gibbs's petition for review. In a letter brief dated February 19, 2015, Appellees conceded that the limitations period should have been tolled during that period, and that as a result, Gibbs's petition was not time-barred.

Accordingly, it is

ORDERED and ADJUDGED that the judgment of the District Court entered March 18, 2013, be and is hereby VACATED and the matter is REMANDED for further proceedings.*

By the Court,

s/ Thomas I. Vanaskie
Circuit Judge

ATTEST:

s/Marcia M. Waldron
Clerk

Dated: April 17, 2015

CLW/JK/cc: All Counsel of Record

* The Third Circuit Court of Appeals gratefully acknowledges the Appellate Litigation Clinic at Drexel University School of Law, Richard H. Frankel, Esq, and law students Mina Khalil and Christopher Bailes for their representation of appellant Carnell Gibbs before the Court.