



ADMINISTRATIVE OFFICE OF THE U.S. COURTS
DEFENDER SERVICES OFFICE TRAINING DIVISION

NON-CAPITAL HABEAS CONFERENCE

InterContinental Hotel
444 St. Charles Avenue
New Orleans, Louisiana
March 27-28, 2025
[Final Agenda](#)

All program sessions will be held on the 3rd floor of the hotel.

Day 1 Thursday, March 27, 2025

8:00–9:00 a.m. Check-in – *La Salle Pre-Function Area*

8:00-9:00 a.m. Continental Breakfast – *La Salle Pre-Function Area*

9:00–9:15 a.m. Welcoming Remarks
La Salle Ballroom A
George Couture, Attorney Advisor, Defender Services Office,
Training Division, Washington, DC
Elizabeth Luck, Chief, Defender Services Office, Washington, DC
Claude Kelly, Federal Defender, Federal Public Defender for the
Eastern District of Louisiana, New Orleans, LA
Amelia Bizzaro, Assistant Chief, Non Capital Habeas Unit, Office
of the Federal Public Defender for the District of Nevada, Las Vegas,
NV

9:15–10:30 a.m. Plenary 1: Circuit and Supreme Court Review
La Salle Ballroom A

Michael Drake, Assistant Federal Defender, Office of the Federal
Public Defender for the Central District of California, Los Angeles,
CA
Paresh Patel, Appellate Chief, Office of the Federal Public Defender
for the District of Maryland, Baltimore, MD

This session will provide an update on Supreme Court and major
circuit decisions in § 2254 and § 2255 cases from the past couple
years.

10:30–10:45 a.m. Refreshment Break – *La Salle Pre-Function Area*

10:45–12:00 a.m. Breakouts 1:

Beginner Getting Started Litigating a § 2254 case

Poydras

Amelia Bizzaro, Assistant Chief, Non Capital Habeas Unit, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV

Claudia Flores, Chief, Non Capital Habeas Unit, Community Defender for the Eastern District of Pennsylvania, Philadelphia, PA

This session will provide an overview of a § 2254 case, walking you through the different stages. It will focus on the concrete steps you should take once you've been appointed, identify issues to look out for and how to find them, discuss ideas for investigation and experts, and cover how to discuss the complexity of these types of cases with your client.

2255 Section 2255: The Basics

La Salle Ballroom B

Shelley Fite, Attorney, National Sentencing Resource Counsel, Madison, WI

This session will provide a brief history of § 2255, and cover some of the preliminary matters you need to consider before filing a § 2255 motion, for example: Is your client in custody? Is a direct appeal still pending? Are the claims you wish to assert cognizable in § 2255, or must you pursue some other remedy? Are the claims you wish to raise barred by the non-retroactivity doctrine of *Teague v. Lane*?

Advanced Investigating New Facts and Discovery

La Salle Ballroom C

Sam Angell, Assistant Federal Defender, Community Defender for the Eastern District of Pennsylvania, Philadelphia, PA

Rachel Primo, Investigator, Community Defender for the Eastern District of Pennsylvania, Philadelphia, PA

This session will offer a practical guide for both lawyers and investigators on how to gather new facts through record requests, online searches, and witness investigation. It will also cover litigation discovery through motions under Rule 6 and other situations requiring a court order.

12:00–1:15 p.m. Lunch (*on your own*)

1:15–2:30 p.m. Breakouts 2:

Beginner Beating the Clock: Calculating, Litigating, and Overcoming the AEDPA Statute of Limitations

Poydras

Susan Wilk, Assistant Federal Defender, Office of the Federal Public Defender for the District of Oregon, Portland, OR

This session will help you calculate the statute of limitations under § 2244(d) and understand and develop arguments to get around the time bar, including statutory tolling, equitable tolling, later triggering dates for newly discovered claims, and actual innocence.

2255 Obstacles to Relief

La Salle Ballroom B

Paresh Patel, Appellate Chief, Office of the Federal Public Defender for the District of Maryland, Baltimore, MD

Jennifer Coffin, Assistant Federal Defender, Federal Defender Services of Eastern TN, Knoxville, TN

This session will help you overcome the primary procedural hurdles found in § 2255 litigation: the statute of limitations, procedural default, appellate and postconviction waivers, the issue was raised and rejected on direct appeal, the burden of proof, and harmless error.

Advanced § 2254(e)/Advanced Shinn

La Salle Ballroom C

Jeremy Baron, Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV

Jonathan Kirshbaum, Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV

Despite the Supreme Court's best efforts, there are still ways to get new evidence in front of the federal court. This session offers an advanced look at *Shinn v. Ramirez* and § 2254(e)(2). It will cover the limitations they impose and how to get around them so you can get your evidence heard.

2:30–2:45 p.m. Refreshment Break – *La Salle Pre-Function Area*

2:45–4:00 p.m. Breakouts 3:

Beginner Putting Together a 2254 Habeas Petition

Poydras

Julie Vandiver, Assistant Federal Defender, Office of the Federal Public Defender for the District of Oregon, Portland, OR

This session will cover how to draft your habeas petition, including how to identify exhausted claims, state your claims in federal constitutional terms, adhere to the requirements of fact pleading, and plead the appropriate prejudice standards. We'll also discuss how to meet all the requirements of a habeas petition while also engaging the reader and laying the necessary groundwork for the remainder of your habeas case.

2255 The § 2255 Motion and What to Expect Afterwards

La Salle Ballroom B

Samantha Stern, Managing Attorney, Appeals/Non-Capital Habeas Unit, Federal Public Defender Western District of Pennsylvania, Pittsburgh, PA

This session will provide guidance about how to put together an effective § 2255 motion, including how to meet fact-based pleading requirements and whether to address the government's affirmative defenses. It will also describe what happens after the motion is filed. What can you expect to see in the government's response? What should you include in your reply? And when should you file certain motions, like a motion to amend, motion for discovery, and a motion for evidentiary hearing?

Advanced Evidentiary Hearings

La Salle Ballroom C

Maggie Lambrose, Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV
Kimberly Newberry, Attorney Federal Capital Habeas Project, Tallahassee, FL

Review the ins and outs of an evidentiary hearing, including securing and preparing (for) witnesses, submitting and presenting evidence, your client's presence and participation, pre-and post-hearing briefing, and more.

- 4:00–5:15 p.m.** **Plenary 2: Keynote Address**
La Salle Ballroom A
Lisa Freeland, *Former Federal Defender (Retired), Panama City, Panama*
- 5:15 p.m.** **Check-out – *La Salle Pre-Function Area***
- 5:15 p.m.** **Happy Hour!**

Day 2

Friday, March 28, 2025

8:00-9:00 a.m.

Check-in – *La Salle Pre-Function Area*

8:00–9:00 a.m.

Continental Breakfast – *La Salle Pre-Function Area*

9:00–10:15 a.m.

Plenary 3: Panel - Section 2254 - Moving between State and Federal Court

La Salle Ballroom A

Moderator: Amelia Bizzaro, *Assistant Chief, Non Capital Habeas Unit, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV*

Panelists:

Tarik Adlai, *The Law Offices of Tarik S. Adlai, Los Angeles, CA*

Rosemary Auge, *Assistant Federal Defender, Community Defender for the Eastern District of Pennsylvania, Philadelphia, PA*

Devon Hein, *Assistant Federal Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

Alicia Intriago, *Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV*

This § 2254 panel discusses avenues and strategies for moving between state and federal court as may be advantageous to your client. This includes stay motions for exhaustion or prudential reasons, getting permission to pursue "ancillary matters" in state court, and otherwise showing the federal courts that sometimes, state court is where *they* want you to be.

2255 (alternative)

What about extra-record claims?

La Salle Ballroom C

Janice Bergmann, *Assistant Federal Defender, Office of the Federal Public Defender for the Southern District of Florida, Ft. Lauderdale, FL*

This session covers how to develop and present facts supporting claims – such as claims of ineffective assistance of counsel and *Brady* claims – that arise outside the trial record, and will discuss discovery, expansion of the record, and evidentiary hearings.

- 10:15–10:30 a.m.** **Refreshment Break – *La Salle Pre-Function Area***
- 10:30–11:45 a.m.** **Plenary 4: Ineffective assistance of counsel claims**
La Salle Ballroom A
 Linda McDermott, *CHU Chief, Federal Public Defender for the Northern District of Florida, Tallahassee, FL*
- This session will discuss the ethical and practical issues that often arise when raising and litigating a claim alleging that prior counsel’s representation of your client was ineffective. The discussion will provide practical tips and strategies for interacting with trial counsel, from initial contact through hearing, while also limiting (or controlling the timing of) the disclosure of privileged information.
- 11:45 a.m. – 1:00 p.m.** **Lunch (*on your own*)**
- 1:00–2:15 p.m.** **Breakouts 4:**
- Beginner** **Exhaustion & Procedural Default: What Is It And How To Get Around It**
Poydras
Amelia Bizzaro, Assistant Chief, Non Capital Habeas Unit, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV
Kimberly Sandberg, Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV
- This beginner session addresses two important roadblocks to having your claims heard: exhaustion and procedural default. We'll identify how to tell if your claims are exhausted, and what to do if they aren't. We'll define procedural default, and talk about how to overcome it. We'll also introduce you to a recent roadblock the Supreme Court put in front of us: *Shinn v. Ramirez*.
- 2255** **What happens after you win (or lose) in the district court?**
La Salle Ballroom B
Matthew Dodge, Appeals & Post-Conviction Attorney, Federal Defender Program, Inc., Northern District of Georgia, Atlanta, GA
Benji McMurray, Senior Litigator, Office of the Federal Public Defender for the District of Utah, Salt Lake City, UT

This session will cover issues you may confront after the district court rules on your § 2255 motion, including possible remedies, government appeals, post-judgment motions under Civil Rules 59(e) and 60(b), certificates of appealability, second or successive motions, and original habeas petitions in the Supreme Court.

Advanced

What happens after you win (or lose) in the district court?

La Salle Ballroom C

Dale Ogden, *Assistant Federal Defender, Office of the Federal Defender for the Central District of California, Los Angeles, CA*

Ron Sung, *Assistant Federal Defender, Office of the Federal Defender for the District of Las Vegas*

This session will cover issues you may confront after the district court rules on your § 2254 petition, including possible remedies, government appeals, post-judgment motions under Civil Rules 59(e) and 60(b), certificates of appealability, second or successive motions, and original habeas petitions in the Supreme Court.

2:15–2:30 p.m.

Refreshment Break – *La Salle Pre-Function Area*

2:30–3:45 p.m.

Breakouts 5

Beginner

“So You’ve Reached the Merits”: Overcoming AEDPA Deference Under § 2254(d)(1) and (2)

Poydras

Tony Bornstein, *Faculty, Lewis and Clark Law School, Portland, OR*

Section 2254(d) bars relief on a state-court merits adjudications unless you can demonstrate the decision was contrary to or an unreasonable application of controlling Supreme Court law, or based on an unreasonable determination of the facts. After this session, participants will understand how to craft and present your best arguments to overcome AEDPA deference, establish the decisions were unreasonable, and get to *de novo* review on the merits.

2255

What to do When § 2255 Doesn't Provide a Remedy

La Salle Ballroom B

Liz Daily, Appellate Chief, Office of the Federal Public Defender for the District of Oregon, Portland, OR

Jenny Osborne, Staff Attorney, Federal Capital Habeas Project, Philadelphia, PA

This session will throw out some creative ideas for how to get your client relief when the § 2255 remedy is unavailable, including a discussion of other writs, and the interaction of § 2255 with motions to reduce sentence under 18 U.S.C. § 3582(c).

Advanced

***Loper Bright* and AEDPA Deference**

La Salle Ballroom C

Erin Barnhart, Assistant Federal Defender, Office of the Federal Defender for the Southern District of Ohio, Columbus, OH

Paul Bottei, Assistant Federal Defender, Office of the Federal Defender for the Southern District of Ohio, Columbus, OH

Now that *Loper Bright* has toppled *Chevron* deference, can AEDPA deference survive? This session will discuss the enticing possibility that *Loper Bright*'s recognition of Article III courts' duty to independently decide cases is incompatible with AEDPA's tolerance of reasonable-but-wrong constitutional judgments by state courts. Explore the historical and jurisprudential basis for this argument and current efforts to press the argument in individual 2254 cases.

3:45 – 4:00 p.m.

Break

4:00 – 5:00 p.m.

Plenary 5: Section 2241 -- Addressing Unlawful Custody In The Absence of a Conviction

La Salle Ballroom A

Stephen Sady, Chief Deputy Federal Defender, Office of the Federal Public Defender for the District of Oregon, Portland, OR

Julie Vandiver, Assistant Federal Defender, Office of the Federal Public Defender for the District of Oregon, Portland, OR

Section 2254(d) bars relief on a state-court merits adjudications unless you can demonstrate the decision was contrary to or an unreasonable application of controlling Supreme Court law, or based on an unreasonable determination of the facts. Section 2254 and 2255 may be inadequate to redress imminent or on-going constitutional violations. This session will address the scope of potential remedies and procedural obstacles under 28 U.S.C. § 2241 where our clients are in unlawful custody but are not challenging a judgment of conviction. Through two case examples of class action 2241 petitions, this session will address the procedural and practical advantages and obstacles to pursuing relief under section 2241, including when individual litigation, joinder of individual litigants, and class actions are tactically beneficial.

5:00 p.m.

Closing remarks

La Salle Ballroom A

George Couture, *Attorney Advisor, Defender Services Office, Training Division, Washington, DC*