

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CURTIS T. BELL,)
)
 Petitioner,)
)
 v.) Civil Action No. 01-491-SLR
)
 ROBERT SNYDER, Warden, and)
 ATTORNEY GENERAL OF THE)
 STATE OF DELAWARE,)
)
 Respondents.)

MEMORANDUM ORDER

On June 4, 2002, the court dismissed petitioner Curtis T. Bell's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The court concluded that the petition was barred by the one-year period of limitation prescribed in 28 U.S.C. § 2244(d)(1). In reaching this conclusion, the court determined that neither the statutory tolling provision nor the doctrine of equitable tolling rendered the application timely.

The court has now received from petitioner a document captioned "Motion for Consideration." (D.I. 19) In his motion, petitioner asserts that he was one of 300 Delaware inmates temporarily housed in Jarratt, Virginia. Because he was incarcerated in Virginia, he argues, he was prevented from asserting his rights in a timely manner.

As the court explained in its prior memorandum opinion, the one-year period of limitation may be equitably tolled only where extraordinary circumstances prevented a petitioner from asserting

his rights in a timely manner. See Miller v. New Jersey State Dep't of Corr., 145 F.3d 616, 618-19 (3d Cir. 1998). Despite petitioner's assertions, the court cannot conclude that his circumstances prevented him from pursuing habeas relief in a timely manner.

Pro se prisoners have no choice but to litigate their claims through the mail. See Houston v. Lack, 487 U.S. 266, 271 (1988). Petitioner does not allege, nor can the court imagine, that he was denied access to the mail while incarcerated in Virginia. The sole fact that petitioner was incarcerated in Virginia is not an extraordinary circumstance warranting equitable tolling. The court thus finds no basis to reconsider its prior order dismissing petitioner's application for federal habeas relief as untimely.

Accordingly, at Wilmington, this 28th day of June, 2002;

IT IS HEREBY ORDERED that petitioner Curtis T. Bell's "motion for consideration" (D.I. 19) is treated as a motion for reconsideration, and so treated, is denied.

Sue L. Robinson
United States District Judge