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RE: PLN Add

I saw your add in Prison Legal News requesting stories on injustice in the court system. I am writing to offer my story of how my state post conviction motion has been allowed to go unresolved in the trial court for 6 years, 3 months now. Although, I filed my motion to vacate pursuant to KY. R.C. Proc. 11.42 in June, 2017 the court has yet to resolve my claims. I was scheduled for an evidentiary hearing on my claims in March, 2020, however, the hearing had to be rescheduled due to COVID-19. Unfortunately, despite numerous requests to reschedule the hearing and an 3 year, 6 month delay, the court has deferred issuing an order. My privately retained counsel passed away in July, 2021 and in November, 2021 I moved to have the Department of Public Advocacy re-appointed to my case. The court issued an order reappointing counsel after a 13 month delay. Since then the DPA has conducted a "review" of my case to determine whether a "reasonable person" would spend their own money to pursue the action. However, the Rule and caselaw guarantee me counsel at the evidentiary hearing I have already been deemed to qualify for, which the DPA has been aware of prior to the filing of the motion to withdraw.

During this time I have Continued to appear in Court (most of the time) and the Judge Continually cites the Courts work load as a valid excuse to call my case on the docket every 60 days for a "Status hearing" and then schedule another hearing for two months out, with the only "Status" of the case being that the Court hasn't even touch the casefile.

Fed up with the unreasonable delay, I filed my Section 2254 Federal Habeas Corpus Petition in May, 2023 citing inordinate delay as my reason for not exhausting State remedies. The Magistrate Judge has Recommended that my Petition be dismissed and Claims that I am at fault for the delay because I previously filed a Supplemental motion raising new Claims in 2018, as well as my Privately retained Counsel filing such in 2019. However that was 4 Years ago and the Court still can't find the time to adjudicate my Claims.

Sincerely,

Elvada Peyton