

Connecticut General Assembly

Habeas Corpus Matters Task Force Successive Habeas Petitions Subcommittee

Co-Chairperson Ken Rosenthal
Co-Chairperson Judge Schuman



c/o Judiciary Committee, Room 2500
Legislative Office Building
300 Capitol Avenue
Hartford, Ct 06106

MINUTES

Thursday, February 6, 2020

Chief State's Attorney's Office, 300 Corporate Place, Rocky Hill, CT 06067

1:00 p.m.

Co-chairs Kenneth Rosenthal and Carl Schuman called the meeting to order at 1 p.m.

Present to introduce themselves at this first meeting of the working group were Merit Lajoie, Tim Everett, Darcy McGraw, Alexandra Harrington, Jim Cousins, Jo Anne Sulik, and Sue Hatfield.

The co-chairs described the purpose of the working group as collecting data and other information to define more concretely the issue of successive petitions and ultimately preparing a report or draft legislation to address the issue, particularly for ineffective assistance of counsel (IAC) claims.

The members then described their particular concerns. Among the topics raised were the following: disciplining attorneys who commit misconduct in criminal cases, mixed petitions that raised both IAC and other claims, the possibility that IAC might be raised as "cause" for purposes of procedural default, even if otherwise barred under a successive petition rule, the difference between multiple petitions and successive petitions, and a rule that would require habeas petitioners to raise all claims in their first petition. Representatives of the defense bar discussed a proposal to give the court or the public defenders discretion as to whether counsel should be appointed for a third IAC petition. It was mentioned that several petitioners have won freedom or a new trial based on a second IAC petition (or "habeas on a habeas"). Representatives of the Division of Criminal Justice and others relied on a memo showing that most states do not allow, or appoint counsel for, a second IAC petition and that there are societal costs to prolonged litigation of criminal cases.

The next meeting was scheduled for Thursday, March 5, 2020 at 1 p.m., probably at the Chief State's Attorney's Office. For that meeting members of the working group will present data on successive petitions, an additional survey of how other states approach the problem, and proposals for where and how to draw the line concerning successive IAC petitions or appointment of counsel for such petitions.

The meeting adjourned at approximately 3 p.m.