

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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**JIMENEZ v. QUARTERMAN, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE, CORREC-
TIONAL INSTITUTIONS DIVISION****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT**

No. 07–6984. Argued November 4, 2008—Decided January 13, 2009

After petitioner’s state conviction for burglary became final on October 11, 1996, the state appellate court held in state habeas proceedings that petitioner had been denied his right to appeal and granted him the right to file an out-of-time appeal. He filed the appeal, his conviction was affirmed, and his time for seeking certiorari in this Court expired on January 6, 2004. Petitioner filed a second state habeas application on December 6, 2004, which was denied 355 days later, on June 29, 2005. He then filed a federal habeas petition on July 19, 2005, relying on 28 U. S. C. §2244(d)(1)(A) to establish its timeliness. Section 2244(d)(1)(A) provides that the one-year limitations period for seeking review under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) begins on “the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review.” Petitioner argued that his judgment became final on January 6, 2004, when time expired for seeking certiorari review of the decision in his out-of-time appeal, and that his July 19, 2005, petition was timely because the calculation of AEDPA’s 1-year limitation period excludes the 355 days “during which [his] properly filed application for State post-conviction . . . review . . . [was] pending,” §2244(d)(2). The District Court disagreed, ruling that the proper start date for calculating AEDPA’s 1-year limitations period under §2244(d)(1)(A) was October 11, 1996, when petitioner’s conviction first became final. The District Court dismissed the federal habeas petition as time barred. The Fifth Circuit denied petitioner’s request for a certificate of appealability.

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Held: Where a state court grants a criminal defendant the right to file an out-of-time direct appeal during state collateral review, but before the defendant has first sought federal habeas relief, his judgment is not “final” for purposes of §2244(d)(1)(A) until the conclusion of the out-of-time direct appeal, or the expiration of the time for seeking certiorari review of that appeal. This Court must enforce plain statutory language according to its terms. See, e.g., *Lamie v. United States Trustee*, 540 U. S. 526, 534. Under §2244(d)(1)(A)’s plain language, once the Texas Court of Criminal Appeals reopened direct review of petitioner’s conviction on September 25, 2002, the conviction was no longer final for §2244(d)(1)(A) purposes. Rather, the order granting an out-of-time appeal restored the pendency of the direct appeal, and petitioner’s conviction was again capable of modification through direct appeal to the state courts and to this Court on certiorari review. Therefore, it was not until January 6, 2004, when time for seeking certiorari review of the decision in the out-of-time appeal expired, that petitioner’s conviction became “final” through “the conclusion of direct review or the expiration of the time for seeking such review” under §2244(d)(1)(A). The Court rejects respondent’s argument that using the later date created by the state court’s decision to reopen direct review, thus resetting AEDPA’s 1-year limitations period, undermines the policy of finality that Congress established in §2244(d)(1). See *Carey v. Saffold*, 536 U. S. 214, 220. Pp. 5–8.

Reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court.