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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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LAWRENCE *v.* FLORIDACERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT

No. 05–8820. Argued October 31, 2006—Decided February 20, 2007

The 1-year statute of limitations for seeking federal habeas relief from a state-court judgment is tolled while an “application for State postconviction or other collateral review” “is pending.” 28 U. S. C. §2244(d)(2). Petitioner Lawrence filed a state postconviction relief application 364 days after his conviction became final. The trial court denied relief, the State Supreme Court affirmed, and this Court denied certiorari. While the certiorari petition was pending, Lawrence filed the present federal habeas application. Then-applicable Eleventh Circuit precedent foreclosed any argument that the limitations period was tolled by the pendency of the certiorari petition. Thus, the District Court dismissed Lawrence’s application as untimely because he waited 113 days after the State Supreme Court’s mandate—well beyond the one day that remained in the limitations period—to file the application. The Eleventh Circuit affirmed.

Held:

1. Section 2244(d)(2) does not toll the 1-year limitations period during the pendency of a certiorari petition in this Court. Pp. 3–8.

(a) Read naturally, the statute’s text means that the statute of limitations is tolled only while state courts review the application. A state postconviction application “remains pending” “until the application has achieved final resolution through the State’s postconviction procedures.” *Carey v. Saffold*, 536 U. S. 214, 220. This Court is not a part of those “procedures,” which end when the state courts have finally resolved the application. The application is therefore not “pending” after the state court’s postconviction review is complete. If it were, it is difficult to understand how a state prisoner could exhaust state postconviction remedies without filing a certiorari petition. Yet state prisoners need not petition for certiorari to exhaust

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state remedies. *Fay v. Noia*, 372 U. S. 391, 435–438. Pp. 3–5.

(b) Lawrence argues that §2244(d)(2) should be construed to have the same meaning as §2244(d)(1)(A), which refers to “the date on which the judgment became final by *the conclusion of direct review* or the expiration of the time for seeking such review.” (Emphasis added.) While “direct review” has long included review by this Court, *Clay v. United States*, 537 U. S. 522, 527–528, §2244(d)(2) refers exclusively to “State post-conviction or other collateral review,” language not easily interpreted to include participation by a federal court. And although the “time for seeking” direct review includes the period for filing a certiorari petition, §2244(d)(2) makes no reference to the “time for seeking” review of a state postconviction court’s judgment. Instead, it seeks to know when a state review application is pending. A more analogous statutory provision, §2263(b)(2), contains a limitations period that is tolled “from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition.” Although this differs from §2244(d)(2)’s language, the language used in both sections clearly provides that tolling hinges on the pendency of state review. This interpretation of §2244(d)(2), results in few practical problems. Because this Court rarely grants review of state post-conviction proceedings, it is unlikely that a federal district court would duplicate this Court’s work or analysis. In any event, a district court concerned about duplication can stay a habeas application until this Court acts. Even in the extremely rare case in which a state court grants relief and the State prevails on certiorari, a prisoner whose subsequent federal habeas petition may be entitled to equitable tolling in light of arguably extraordinary circumstances and the prisoner’s diligence. See *Pace v. DiGuglielmo*, 544 U. S. 408, 418, and n. 8. In contrast to these hypothetical problems, allowing the statute of limitations to be tolled by certiorari petitions would provide incentives for state prisoners to file such petitions as a delay tactic, regardless of the merit of their claims. Pp. 5–8.

2. Assuming, without deciding, that §2244(d)(2) allows for equitable tolling, Lawrence falls far short of showing “extraordinary circumstances,” *Pace, supra*, at 418, necessary to support equitable tolling of his otherwise untimely claims. Pp. 8–9.

421 F. 3d 1221, affirmed.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, and ALITO, JJ., joined. GINSBURG, J., filed a dissenting opinion, in which STEVENS, SOUTER, and BREYER, JJ., joined.