

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond, on Friday, the 8th day of June, 2012.

PRESENT: All the Justices

Walter Delaney Booker, Jr., Petitioner,
against Record No. 111363
Director of the Department Respondent.
of Corrections,

Upon a Petition for a Writ of Habeas Corpus

Upon consideration of the petition for a writ of habeas corpus filed July 27, 2011, and the respondent's motion to dismiss, the Court is of the opinion that the motion should be granted and the writ should not issue.

Petitioner is detained pursuant to an order entered in the Circuit Court of the City of Portsmouth on June 16, 2009, wherein the court revoked petitioner's previously suspended sentences for two convictions, and re-suspended all but six years on each sentence to be served concurrently. Petitioner's appeal to the Court of Appeals of Virginia was unsuccessful, and this Court refused petitioner's appeal on August 6, 2010. Petitioner now challenges the legality of his confinement pursuant to the revocation of his previously suspended sentences.

On consideration of the petition for a writ of habeas corpus,

the Court finds the petition was not timely filed and dismisses the petition. The limitation period for habeas corpus petitions challenging revocation hearings is one year after the cause of action accrues. Code § 8.01-654(A)(2). Petitioner's cause of action accrued in this matter on June 16, 2009, when the circuit court entered the order under which petitioner is currently detained. Thus, petitioner had until June 16, 2010 in which to file a petition for a writ of habeas corpus.

Accordingly, the rule is discharged and the respondent shall recover from the petitioner the costs expended in his defense herein.

This order shall be published in the Virginia Reports.

Respondent's costs:

Attorney's fee	\$50.00
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A Copy,

Teste:

Patricia L. Harrington, Clerk