

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

Syllabus

**PACE v. DIGUGLIELMO, SUPERINTENDENT, STATE
CORRECTIONAL INSTITUTION AT GRATERFORD,
ET AL.****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE THIRD CIRCUIT**

No. 03–9627. Argued February 28, 2005—Decided April 27, 2005

After the Pennsylvania Superior Court found petitioner’s state postconviction petition untimely under the Pennsylvania Post Conviction Relief Act (PCRA) and the State Supreme Court denied review, petitioner sought federal habeas. The District Court refused to dismiss the petition under the Antiterrorism and Effective Death Penalty Act of 1996’s (AEDPA) statute of limitations, finding that petitioner was entitled to both statutory and equitable tolling while his PCRA petition was pending even though that petition was untimely under state law. Reversing, the Third Circuit held, with regard to statutory tolling, that an untimely PCRA petition is not “a properly filed application for State post-conviction or other collateral review” that tolls AEDPA’s limitations period under 28 U. S. C. §2244(d)(2), and that there were no extraordinary circumstances justifying equitable tolling.

Held: Because petitioner filed his federal habeas petition beyond the deadline and is not entitled to statutory or equitable tolling for any of that time period, his federal petition is barred by AEDPA’s statute of limitations. Pp. 4–10.

(a) Petitioner is not entitled to statutory tolling. When this Court held in *Artuz v. Bennett*, 531 U. S. 4, 8, 11, that time limits on postconviction petitions are “condition[s] to filing,” such that an untimely petition would not be deemed “properly filed,” it reserved the question “whether the existence of certain exceptions to a timely filing requirement can prevent a late application from being considered improperly filed,” *id.*, at 8, n. 2. There are no grounds for treating the

Syllabus

two differently. Under the common understanding of “properly filed” that guided the *Artuz* Court, a petition filed after a time limit, which does not fit within any exceptions to that limit, is no more “properly filed” than a petition filed after a time limit permitting no exception. This commonsense reading is confirmed by the purpose of AEDPA’s statute of limitations and is supported by *Carey v. Saffold*, 536 U. S. 214. Petitioner’s counterarguments—that “condition[s] to filing” are merely those conditions necessary to get a clerk to accept the petition, not conditions requiring judicial consideration; that a condition that must be applied on a claim-by-claim basis cannot be a “condition to filing”; and that this Court’s interpretation is unfair to petitioners who try in good faith to exhaust their state remedies—are rejected. *Artuz* does not require a different result. There is an obvious distinction between time limits, which go to the very initiation of a petition and a court’s ability to consider that petition, and the type of rule-of-decision procedural bars at issue in *Artuz*, which go to the ability to obtain relief. Pp. 4–9.

(b) Because petitioner waited for years after his claims became available to file his PCRA petition and five more months once his PCRA proceedings became final before seeking relief in federal court, he has not established that he pursued his claims diligently. Thus, assuming equitable tolling applies here, he is not entitled to equitable tolling. See, e.g., *Irwin v. Department of Veterans Affairs*, 498 U. S. 89, 96. Pp. 9–11.

71 Fed. Appx. 127, affirmed.

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