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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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RHINES *v.* WEBER, WARDENCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 03–9046. Argued January 12, 2005—Decided March 30, 2005

After petitioner Rhines’ state conviction for first-degree murder and burglary became final and his state habeas petition was denied, he filed a federal habeas petition. Because the 1-year statute of limitations imposed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) was tolled while his state petition was pending, see 28 U. S. C. §2244(d)(2), he had more than 11 months before the limitations period expired. However, by the time the District Court ruled that eight of his claims had not been exhausted in state court, the limitations period had run. If the court had dismissed his “mixed” petition, Rhines would have been unable to refile after exhausting his claims, so the court decided to hold his federal petition in abeyance while he presented his unexhausted claims in state court, provided that he commenced the state proceedings within 60 days and returned to the District Court within 60 days of completing the exhaustion. The Eighth Circuit, which had previously held that a district court has no authority to hold mixed petitions in abeyance absent truly exceptional circumstances, vacated the stay and remanded the case for the District Court to determine whether Rhines could proceed by deleting unexhausted claims.

Held: A district court has discretion to stay a mixed petition to allow a petitioner to present his unexhausted claims to the state court in the first instance and then to return to federal court for review of his perfected petition. Pp. 3–8.

(a) Fourteen years before Congress enacted AEDPA, this Court held that federal district courts may not adjudicate mixed petitions but must give state courts the first opportunity to decide a petitioner’s claims; imposed a “total exhaustion” requirement; and directed federal courts to effectuate that requirement by dismissing

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mixed petitions without prejudice and allowing petitioners to return to state court. *Rose v. Lundy*, 455 U. S. 509, 518–519. At the time, there was no statute of limitations on federal habeas petitions. But that changed with AEDPA, which preserved *Lundy*’s total exhaustion requirement while imposing a 1-year limitations period, which is tolled during the pendency of a state, but not a federal, habeas petition. As a result, petitioners such as Rhines run the risk of forever losing their opportunity for federal review of their unexhausted claims. Even a petitioner who files early cannot control when a district court will resolve the exhaustion question. The gravity and difficulty of this problem has led some district courts to adopt the “stay-and-abeyance” procedure at issue. Pp. 3–5.

(b) AEDPA does not deprive district courts of the authority to issue stays that are a proper exercise of their discretion, but it does circumscribe that discretion. Any solution to this problem therefore must be compatible with AEDPA’s purposes. Staying a federal habeas petition frustrates AEDPA’s objective of encouraging finality of state court judgments by allowing a petitioner to delay the resolution of the federal proceedings, and it undermines AEDPA’s goal of streamlining federal habeas proceedings by decreasing a petitioner’s incentive to exhaust all his claims in state court before filing his federal petition. Thus, stay and abeyance should be available only in limited circumstances. Because granting a stay effectively excuses a petitioner’s failure to present his claims first to the state courts, stay and abeyance is only appropriate when the district court determines there was good cause for the petitioner’s failure to exhaust his claims. Even if good cause existed, the district court would abuse its discretion if it granted a stay when the unexhausted claims are plainly meritless. Where stay and abeyance is appropriate, the district court’s discretion is still limited by AEDPA’s timeliness concerns. If a district court does not place reasonable time limits on a petitioner’s trip to state court and back, petitioners, especially capital petitioners, could frustrate AEDPA’s finality goal by dragging out indefinitely their federal habeas review. And if a petitioner engages in abusive litigation tactics or intentional delay, the district court should not grant a stay at all. On the other hand, it likely would be an abuse of discretion for a district court to deny a stay and dismiss a mixed petition if the petitioner had good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that he engaged in intentionally dilatory litigation tactics. Such a petitioner’s interest in obtaining federal review of his claims outweighs the competing interests in finality and speedy resolution of federal petitions. For the same reason, if the court determines that stay and abeyance is inappropriate, it should allow the petitioner to

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delete the unexhausted claims and proceed with the exhausted ones if dismissing the entire petition would unreasonably impair the petitioner's right to obtain federal relief. Pp. 5–8.

346 F. 3d 799, vacated and remanded.

O'CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, SCALIA, KENNEDY, THOMAS, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed a concurring opinion, in which GINSBURG and BREYER, JJ., joined. SOUTER, J., filed an opinion concurring in part and concurring in the judgment, in which GINSBURG and BREYER, JJ., joined.