

Opinion of STEVENS, J.

SUPREME COURT OF THE UNITED STATES

No. 98–6322

ANTONIO TONTON SLACK, PETITIONER v. ELDON
MCDANIEL, WARDEN, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[April 26, 2000]

JUSTICE STEVENS, with whom JUSTICE SOUTER and JUSTICE BREYER join, concurring in part and concurring in the judgment.

With respect to the issue resolved in Part II of the Court’s opinion, I agree with the Courts of Appeals that have held that the pre-AEDPA version of 28 U. S. C. §2253 governs the right to appeal with respect to an appeal noticed after the effective date of AEDPA in a habeas corpus proceeding commenced prior to that date. See *Fuller v. Roe*, 182 F. 3d 699, 702 (CA9 1999); *Crowell v. Walsh*, 151 F. 3d 1050, 1051–1052 (CA10 1998); *Tejeda v. Dubois*, 142 F. 3d 18, 22, n. 4 (CA1 1998); *Berrios v. United States*, 126 F. 3d 430, 431, n. 2 (CA2 1997); *United States v. Kunzman*, 125 F. 3d 1363, 1364, n. 2 (CA10 1997); *United States v. Skandier*, 125 F. 3d 178, 179–182 (CA3 1997); *Hardwick v. Singletary*, 122 F. 3d 935, 936, vacated in part on other grounds, 126 F. 3d 1312 (CA11 1997); *Arredondo v. United States*, 120 F. 3d 639, 640 (CA6 1997); *United States v. Carter*, 117 F. 3d 262, 264 (CA5 1997); but see *Tiedeman v. Benson*, 122 F. 3d 518, 520–521 (CA8 1997).

I do, however, join the balance of the Court’s opinion and its judgment.