

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 98-2417MN

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Andrew John Virnig,	*	
	*	
Appellant,	*	
	*	Appeal from the United States
v.	*	District Court for the District
	*	of Minnesota.
State of Minnesota; Morrison County	*	
District Court; Thomas Godzala, sued as	*	[UNPUBLISHED]
Hon. Thomas A. Godzala, Judge of	*	
District Court,	*	
	*	
Appellees.	*	

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Submitted: March 12, 1999  
Filed: March 18, 1999

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Before FAGG, LAY, and WOLLMAN, Circuit Judges.

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PER CURIAM.

Andrew John Virnig appeals the district court's dismissal of Virnig's petition for writ of habeas corpus because the petition was not filed within the one-year period required by statute. Based on the courts recent decision in Smith v. Bowersox, 159 F.3d 345 (8th Cir. 1998), cert. denied, 1999 WL 14963 (U.S. Mar. 1, 1999) (No. 98-1127), we conclude Virnig's habeas corpus petition was timely filed. We thus reverse the district court's order and remand the case for reinstatement of Virnig's petition and for further proceedings. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.