

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JONATHAN ROSE

CIVIL ACTION

VERSUS

NO: 08-4783

HOWARD PRINCE, WARDEN

SECTION: R(5)

ORDER AND REASONS

The Court, finding that as of this date neither party has objected to the Magistrate Judge's Report and Recommendation, hereby approves the Report and adopts it as its own opinion.

The Court additionally writes in response to Moore's Motion Seeking Abeyance filed September 2, 2009. Rose asks the court to stay its dismissal pending review by the Louisiana Fifth Circuit Court of Appeal of its former procedures for handling pro-se criminal applications for supervisory writs. *See State v. Cordero*, 993 So.2d 203 (La. 2008). The Court denies Rose's motion.

First, it is not clear that Rose's original application to the Louisiana Fifth Circuit Court of Appeal for a supervisory writ is subject to re-review under *Cordero*. Rose's original application was denied on December 19, 2007, but the unconstitutional procedures at the Louisiana Fifth Circuit Court of Appeal ended on May 21, 2007. *See Cordero*, 993 So.2d at 204; *Evans v. Cain*, -F.3d-, 2009 WL 2370879, at *2 (5th Cir. 2009).

In any event, the Court finds that there is no need to stay dismissal of Rose's petition for habeas corpus relief. Any relief to which Rose may eventually be entitled as a result of the Louisiana Fifth Circuit Court of Appeal's review of its former procedures should be sought in state courts. See, e.g., *Evans v. Cain*, -F.3d-, 2009 WL 2370879, at *2 (5th Cir. 2009) (denying motion to stay pending "re-review of original claims in Louisiana Fifth Circuit Court of Appeal according to the Louisiana Supreme Court's opinion in [*Cordero*]"); *Washington v. Louisiana*, Civ. A. No. 09-3186, 2009 WL 2015556, at *4 (E.D. La. June 30, 2009) (Lemmon, J.) (same); *Severin v. Jefferson*, Civ. A. No. 09-2766, 2009 WL 1107713, at *4 (E.D. La. April 23, 2009) (Africk, J.) (same).

Accordingly, it is ordered that the petition of Jonathan Rose for issuance of a writ of habeas corpus under 28 U.S.C. § 2254(e)(2) be DISMISSED WITH PREJUDICE.

New Orleans, Louisiana, this 10th day of September, 2009.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE