IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

| BRENDA JOYCE GIVHAN, |) |
|-------------------------|---------------------------------|
| # 133055 |) |
| Petitioner, |)) |
| v. |) Civil Action No. 2:09cv56-TMH |
| FRANK ALBRIGHT, et al., |) |
| Respondents. |) |
| | |

ORDER

This cause is before the court on a petition for habeas corpus relief in which Petitioner, a state inmate, challenges a sentence imposed upon her by the Circuit Court for Montgomery County, Alabama, a state trial court. Through her petition, Petitioner seeks an award of jail credit from the aforementioned state court. In their answer filed with this court on March 23, 2009 (Doc. No. 9), Respondents assert that Petitioner has failed to exhaust state court remedies with respect to the claims presented in her habeas petition. Specifically, Respondents allege that Petitioner has not pursued any state post-conviction proceedings challenging her sentence although she has an available state remedy through Rule 32 of the Alabama Rules of Criminal Procedure.

The law directs that a petition for writ of habeas corpus filed by "a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the

applicant has exhausted the remedies available in the courts of the [convicting] State...." 28

U.S.C. § 2254(1)(b)(1)(A). Upon review of the pleadings filed in this case, it appears that

Petitioner has not yet exhausted her available state court remedies with respect to each of the

claims presented in her petition for habeas corpus relief. This court does not deem it

appropriate to rule on the merits of Petitioner's claims without first requiring that Petitioner

exhaust state remedies. See 28 U.S.C. § 2254(1)(b)(2). Accordingly, it is

ORDERED that on or before April 7, 2009, Petitioner shall show cause why her

petition should not be dismissed for failure to exhaust state court remedies.

Done this 24th day of March, 2009.

/s/Charles S. Coody.

CHARLES S. COODY

UNITED STATES MAGISTRATE JUDGE

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