

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

RALPH KERMIT WINTERROWD 2nd,

Petitioner,

vs.

MARC OKULEY,

Respondent.

Case No. 3:06-cv-00041-TMB

ORDER TO DISMISS

On February 24, 2006, Ralph Kermit Winterrowd 2nd, who describes himself as "a free white citizen, American citizen, citizen of the United States of America, and Natural Born Native of the foreign state of Kansas domiciled in the territorial boundaries of Alaska,"¹ representing himself, filed a petition for writ of habeas corpus alleging that he is being unlawfully and illegally restrained of his liberty by the State of Alaska, after being found guilty of driving without a valid state driver's

¹ Docket No. 1 at 2.

license.² Mr. Winterrowd's petition, however, is premature. He has not exhausted his state court remedies.³ Until he does so, this Court will not hear his case.

IT IS HEREBY ORDERED:

This action is DISMISSED without prejudice.

DATED this 3rd day of March, 2006, at Anchorage, Alaska.

/s/TIMOTHY M. BURGESS
United States District Judge

² See Docket No. 1.

³ See 28 U.S.C. § 2254(b)(1)(A); see also *O'Sullivan v. Boerckel*, 526 U.S. 838, 844 (1999); *Peterson v. Lampert*, 319 F.3d 1153, 1155-56 (9th Cir. 2003) ("A federal court may not grant habeas relief to a state prisoner unless he has properly exhausted his remedies in state court. ... A petitioner must exhaust his state remedies by reaching the point where he has no state remedies available to him at the time he files his federal habeas petition."); *McNeely v. Blanas*, 336 F.3d 822, 825-26 (9th Cir. 2003) ("After the initial [§ 2241] petition was dismissed without prejudice due to the presence of unexhausted claims, Petitioner filed an amended petition, excluding the unexhausted claims, on September 25, 2000. In his answer, Respondent agreed that Petitioner has exhausted his remedies on the issues raised in the amended petition."); *Reutter v. Crandel*, 109 F.3d 575, 577 (9th Cir.), cert. denied, 118 S. Ct. 142 (1997) ("Only if the state courts have had the first opportunity to hear the claim sought to be vindicated in a federal habeas proceeding does it make sense to speak of the exhaustion of state remedies") (quoting *Picard v. Connor*, 404 U.S. 270 (1971)); *Zichko v Idaho*, 247 F.3d 1015, 1022 (9th Cir. 2001) ("A habeas petitioner must present his claims to the state's highest court in order to satisfy the exhaustion requirement of 28 U.S.C. §§ 2254(b)(1) and (c)").