

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

EDDY STANLEY HARRIS, JR.

PETITIONER

VS.

CASE NO. 4:09CV00276 SWW

**LARRY NORRIS, Director of the
Arkansas Department of Correction**

RESPONDENT

ORDER

The Court has received proposed Findings and Recommendations from Magistrate Judge H. David Young. After careful review of those Findings and Recommendations, the timely objections received thereto, and a *de novo* review of the record, the Court concludes that the Findings and Recommendations should be, and hereby are, approved and adopted in their entirety except in the following respects:

1) The Court finds the petition should not be dismissed. Instead, the Court finds the petition should be stayed pending exhaustion of petitioner's state remedies. *See Rhines v. Weber*, 544 U.S. 269 (2005)(stay should be granted under certain circumstances).

2) The Court declines to adopt the Magistrate Judge's finding that a claim filed within forty-five days after judgment in this case would show diligence on the part of the petitioner.

IT IS THEREFORE ORDERED that this case is stayed and held in abeyance until further order of the Court. The Clerk is directed to administratively terminate this case. Petitioner must file a motion to reopen the case after a final decision by the state court on his unexhausted claim.

DATED this 6th day of August, 2009.

/s/Susan Webber Wright

United States District Judge