

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

**GREGORY MARTIN**  
ADC #170561

**PETITIONER**

v.

**Case No: 4:20-cv-00048 KGB-PSH**

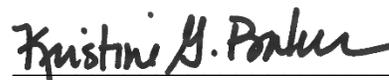
**DEXTER PAYNE, Director,**  
Arkansas Division of Corrections

**RESPONDENT**

**ORDER**

The Court has reviewed the Findings and Recommendation (“Recommendation”) submitted by United States Magistrate Judge Patricia S. Harris (Dkt. No. 18). Judge Harris’s Recommendation recommends that petitioner Gregory Martin’s petition for writ of *habeas corpus* filed pursuant to 28 U.S.C. § 2254 be dismissed without prejudice to allow Mr. Martin to exhaust his state court remedies (Dkt. No. 18, at 3). Mr. Martin did not object to the Recommendation; however, respondent Dexter Payne filed a letter with the Court notifying it that, after Judge Harris submitted her Recommendation, the Arkansas Supreme Court granted Mr. Martin’s motion to file a belated appeal of his conviction (Dkt. No. 19). Director Payne attached to his letter the opinion of the Arkansas Court of Appeals denying Mr. Martin’s appeal (Dkt. No. 19-1). *See Martin v. State*, 2021 Ark. App. 463, 1 (2021). Because it appears to the Court based on Director Payne’s submission that Mr. Martin attempted exhaustion of his state court remedies while Judge Harris’s Recommendation was pending before this Court, the Court declines to adopt Judge Harris’s Recommendation. The case is referred back to Judge Harris for further proceedings.

So ordered this 17th day of January, 2023.



Kristine G. Baker  
United States District Judge