

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-00138-BNB

STEVEN A. MANTHEY,

Petitioner,

v.

ADAMS COUNTY SHERIFF DOUG DARR, and
THE HONORABLE JOHN SUTHERS, ATTORNEY GENERAL FOR THE STATE OF
COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 22 2010

GREGORY C. LANGHAM
CLERK

ORDER GRANTING MOTION FOR EMERGENCY STAY

Petitioner, Steven A. Manthey, has filed through counsel an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and a motion for an emergency stay of the state court proceedings pursuant to 28 U.S.C. § 2251. He has paid the \$5.00 filing fee.

Mr. Manthey alleges that he was convicted in Adams County District Court in April 2007, and that he was sentenced to five years of probation, together with ninety days incarceration in the county jail, with forty-five days suspended, on condition of compliance with terms of the probation. He further alleges that he has remained free on bail pending the conclusion of his direct appeal in state court, which ended on September 21, 2009, when the Colorado Supreme Court denied his petition for writ of certiorari. Mr. Manthey asserts that he is scheduled to appear in state court on January 25, 2010, at which time he will be required to begin serving his sentence.

The Court has the authority to “stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding.” 28 U.S.C. § 2251. Given the length of the jail sentence imposed, the Court finds that it is appropriate to stay that sentence until the merits of the habeas corpus application are decided. Therefore, the motion for an emergency stay will be granted. Accordingly, it is

ORDERED that the motion for an emergency stay filed on January 22, 2010, is granted. It is

FURTHER ORDERED that execution of Mr. Manthey’s sentence in Adams County District Court Case No. 2006CR254 is stayed pending the resolution of this action.

DATED at Denver, Colorado, this 22 day of January, 2010.

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge, for
ZITA LEESON WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-00138-BNB

Themia E. Sandven
Themia E. Sandven, P.C.
815 East Seventeenth Avenue
Denver, CO 80218-1417

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 1/22/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk