

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00193-GPG

BERNARD JONES,

Applicant,

v.

LOU ARCHULETA, Warden, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER DISMISSING CASE

Applicant, Bernard Jones, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Jones initiated this action by filing *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1). On February 24, 2016, Magistrate Judge Gordon P. Gallagher ordered Respondents to file a Pre-Answer Response that addresses the affirmative defenses of timeliness and exhaustion of state court remedies if Respondents intend to raise either or both of those defenses in this action. On March 16, 2016, Respondents filed their Pre-Answer Response (ECF No. 12) arguing, in part, that Mr. Jones has failed to exhaust state remedies. On March 21, 2016, Mr. Jones filed a Motion for Stay and Abeyance (ECF No. 13) asking the Court to stay this action while he continues to seek postconviction relief in state court. On March 22, 2016, Respondents filed a Response to Motion for Stay (ECF No. 14). On April 8, 2016, Mr. Jones filed a Motion to Dismiss Without Prejudice (ECF No. 15) asking the

Court to dismiss the instant action so that he can exhaust state remedies. The motion to dismiss will be granted. Accordingly, it is

ORDERED that the Motion to Dismiss Without Prejudice (ECF No. 15) is granted and the action is dismissed without prejudice. It is

FURTHER ORDERED that the Motion for Stay and Abeyance (ECF No. 13) is denied as moot.

DATED at Denver, Colorado, this 11th day of April, 2016.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court