

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JASON WADE JENKINS,

Petitioner,

v.

Case No: 2:17-cv-106-FtM-38MRM

STATE OF FLORIDA and FLORIDA  
ATTORNEY GENERAL,

Respondents.

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**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on Petitioner, Jason Wade Jenkins' Motion to Dismiss ([Doc. #18](#)) filed on September 25, 2017. Petitioner acknowledges that his state court remedies have not been exhausted and now moves the Court to voluntarily dismiss his petition without prejudice.

Before a district court can grant habeas relief to a state prisoner under [28 U.S.C. § 2254](#), the petitioner must exhaust all state court remedies that are available for challenging his conviction, either on direct appeal or in a state post-conviction motion. See [28 U.S.C. § 2254\(b\)\(1\)\(A\)](#); [O'Sullivan v. Boerckel, 526 U.S. 838, 842 \(1999\)](#) (“[T]he state prisoner must give the state courts an opportunity to act on his claims before he

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presents those claims to a federal court in a habeas petition.”). Since Petitioner acknowledges that his state court remedies have not been exhausted, the Motion is due to be granted.

Accordingly, it is now

**ORDERED:**

Petitioner, Jason Wade Jenkins' Motion to Dismiss ([Doc. #18](#)) is **GRANTED**. The Petition is hereby **DISMISSED without prejudice**. The Clerk of the Court is directed to enter judgment accordingly, terminate any pending motions and deadlines, and close the file.

**DONE** and **ORDERED** in Fort Myers, Florida this 26th day of September, 2017.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies:  
Jason Wade Jenkins  
All Counsel of Record  
SA: FtMP-2