

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

CRAIG MIDDLETON,

Petitioner,

-vs-

Case No. 8:06-cv-217-T-17TBM

JAMES V. CROSBY, JR.,

Respondent.

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**ORDER**

Pro se petitioner Craig Middleton filed a 28 U.S.C. § 2254 petition for writ of habeas corpus challenging his conviction and sentences entered by the Circuit Court for the Sixth Judicial Circuit, Pinellas County, Florida in state court cases 03-5368 and 03-662CFANO. Petitioner states that he has a presently pending petition in the state trial court alleging failure of the State to obtain proper oath certification that is required before the filing of an information in case number 03-05368CF. Therefore, Petitioner has not exhausted his state court remedies and the present petition is a mixed petition.

**BACKGROUND**

Petitioner pled nolo contendere to one count of robbery, one count of driving while his license was suspended/revoked, one count of fleeing and eluding, and one count of giving a false name to a law enforcement officer. He states that he was sentenced on November 13, 2003, to ten years incarceration as a habitual violent offender. Petitioner did not directly appeal the conviction and sentence, but filed several collateral motions, all of which were denied. Petitioner attached copies of the orders denying his collateral

motions. Petitioner was warned " that should he continue his pattern of filing frivolous pleadings, he may face sanctions." (Petitioner's Exhibit E -- Order Dismissing "Motion To Vacate and Set Aside Convictions, Judgments and Sentences" signed February 16, 2005).

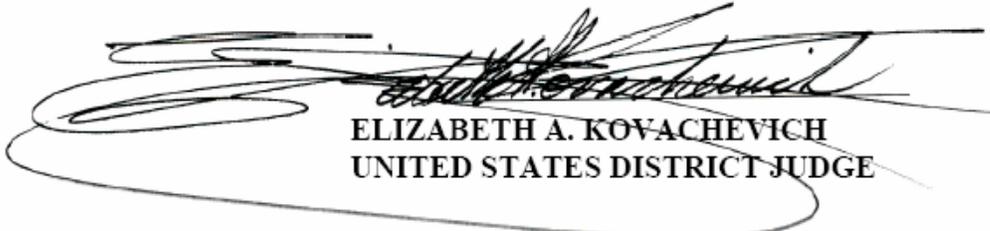
Pursuant to Rhines v. Weber, 544 U.S. 269 (2005), the Court has the discretion to stay a mixed habeas petition to allow the petition to present his unexhausted claims to the state court. Having considered the present petition, the Court orders:

1. That the present petition is stayed.

2. That, within 30 days of the date Petitioner has exhausted his claim now pending in state court, Petitioner shall file a motion to reopen this case, and shall file an amended petition that includes ALL of his claims. Failure to do so will result in the dismissal of this petition, without further notice.

The Clerk is directed to administratively close this case.

ORDERED at Tampa, Florida, on February 13, 2006.



ELIZABETH A. KOVACHEVICH  
UNITED STATES DISTRICT JUDGE

Craig Middleton