

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JOSEPH LESLIE DRAFFEN, # B-81563,

Petitioner,

vs.

BRAD J. ROBERT,

Respondent.

Case No. 13-cv-1149-DRH

MEMORANDUM AND ORDER

HERNDON, Chief District Judge:

Joseph Leslie Draffen, a state prisoner, filed his petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on November 6, 2013. Petitioner challenges the execution of the sixteen-year sentence imposed after his October 2007 Massac County, Illinois, conviction for home invasion. *People v. Draffen*, Case No. 07-CF-93. Petitioner asserts that when the trial court pronounced his sentence, the judge stated on the record that the day-for-day (50%) good conduct credit would apply. However, the Illinois Department of Corrections has calculated that petitioner must serve 85% of his sentence before he may be eligible for parole/mandatory supervised release.

Petitioner indicates that he has exhausted his state court remedies with respect to the claims raised in his federal habeas petition; furthermore, he appears to have filed his petition in a timely manner. Without commenting on the merits of petitioner's claims, the Court concludes that the petition survives preliminary review under Rule 4 of the Rules Governing Section 2254 Cases in

United States District Courts.

IT IS HEREBY ORDERED that respondent shall answer the petition or otherwise plead within thirty days of the date this order is entered. This preliminary order to respond does not, of course, preclude the State from making whatever waiver, exhaustion or timeliness argument it may wish to present. Service upon the Illinois Attorney General, Criminal Appeals Bureau, 100 West Randolph, 12th Floor, Chicago, Illinois 60601 shall constitute sufficient service.

IT IS FURTHER ORDERED that pursuant to Local Rule 72.1(a)(2), this cause is referred to United States Magistrate Judge **Clifford J. Proud** for further pre-trial proceedings.

IT IS FURTHER ORDERED that this entire matter be **REFERRED** to United States Magistrate Judge Proud for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral*. Petitioner is **ADVISED** of his continuing obligation to keep the Clerk (and each opposing party) informed of any change in his whereabouts during the pendency of this action. This notification shall be done in writing and not later than seven days after a transfer or other change in address occurs. Failure to provide such notice may result in dismissal of this action. See FED. R. CIV. P. 41(b).

IT IS SO ORDERED.

Signed this 26th day of November, 2013.

**Chief Judge
U.S. District Court**

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David R. Herndon
Date: 2013.11.26
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