

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

KAY KIM,)
)
Petitioner,)
v.) No. 1:09-cv-1221-SEB-JMS
)
STATE OF INDIANA,)
)
Respondent.)

Entry Discussing Petition for Writ of Habeas Corpus

The respondent's argument that the petition for a writ of habeas corpus of Kay Kim should be dismissed for failure to exhaust available remedies in the Indiana state courts is **sustained**. Accordingly, Kim's habeas petition will be dismissed without prejudice. The reasons for this ruling are that (1) “[b]efore seeking a federal writ of habeas corpus, a state prisoner must exhaust available state remedies,” *Baldwin v. Reese*, 541 U.S. 27, 29 (2004)(citing 28 U.S.C. §2254(b)(1)), (2) Kim did not present her habeas claims to the Indiana state courts prior to filing this action, and (3) a meaningful remedy exists in the Indiana courts for Kim to present her habeas claims, this consisting of an effort to appeal the trial court's order finding that she is incompetent to proceed to trial.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 01/04/2010


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana