

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

|                 |   |                           |
|-----------------|---|---------------------------|
| KERRY SNOW,     | ) |                           |
|                 | ) |                           |
| Petitioner,     | ) |                           |
| v.              | ) | No: 1:15-cv-01750-TWP-TAB |
|                 | ) |                           |
| DUSHAN ZATECKY, | ) |                           |
|                 | ) |                           |
| Respondent.     | ) |                           |

**Entry Again Directing Further Proceedings**

**I.**

Kerry Snow seeks a writ of habeas corpus invalidating his 2009 Howard County conviction of dealing in cocaine. Snow was given through December 1, 2015 in which to do the following: First, he was to *identify* which of his habeas claims were decided on the merits in the Indiana state courts. Second, he was to *explain* as to each such claim whether and in what way the state court's decision was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States, or was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceedings.

Snow has responded to the foregoing directions with his motion to amend, wherein he attempts to explain that he was denied the effective assistance of counsel and that his trial was rendered unfair because of tainted identification procedures. However, the motion to amend does not identify which of his habeas claims were decided on the merits in the Indiana state courts. Further, the motion to amend does not explain whether and how the decision of the Indiana state courts on any claim which has been asserted in his habeas petition is deficient under the standard which was given to him. Accordingly, the motion to amend [dkt 6] is **denied** because it does not

comply with direction issued in the Entry of November 9, 2015 and because it does not otherwise assert a viable basis on which he could be awarded the relief he seeks in this action.

## II.

Snow seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254(a). A federal court may grant habeas relief only if the petitioner demonstrates that he is in custody "in violation of the Constitution or laws . . . of the United States." 28 U.S.C. § 2254(a) (1996).

"By its terms § 2254(d) bars relitigation of any claim 'adjudicated on the merits' in state court, subject only to the exceptions in §§ 2254(d)(1) and (d)(2)." *Harrington v. Richter*, 562 U.S. 86, 98 (2011). The three exceptions are: (1) the state court's decision was contrary to clearly established federal law; or (2) there was an unreasonable application of clearly established federal law; or (3) the decision was based on an unreasonable determination of the facts. *Id.* at 100 (citing 28 U.S.C. §§ 2254(d)(1), (2)); *see also O'Quinn v. Spiller*, No. 14-1836, 2015 WL 7568443, at \*1 (7th Cir. Nov. 25, 2015)("We ask only whether the [state court's] decision was 'contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States,' or 'was based on an unreasonable determination of facts in light of the evidence presented in the State court proceeding.'")(quoting 28 U.S.C. § 2254(d)(1), (2). This means, among other things, that "under AEDPA, federal courts do not independently analyze the petitioner's claims; federal courts are limited to reviewing the relevant state court ruling on the claims." *Rever v. Acevedo*, 590 F.3d 533, 536 (7th Cir. 2010). As one court has explained, "[i]t is this Court's obligation to focus "on the state court decision that previously addressed the claims rather than the petitioner's freestanding claims themselves." *McLee v. Angelone*, 967 F.Supp. 152, 156 (E.D.Va. 1997).

Snow has offered freestanding claims. This will not do. He shall have a further period of time, **through January 6, 2016**, in which to supplement his petition for writ of habeas corpus as directed in the Entry of November 9, 2015.

IT IS SO ORDERED.

Date: 12/9/2015

A handwritten signature in black ink, reading "Tanya Walton Pratt", is positioned above a horizontal line.

TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana

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