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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISIONDANA EDWIN WHITE,
Petitioner,

vs.

STATE OF IOWA, WARDEN JERRY
BURT,

Respondents.

No. C08-2035

ORDER

This matter is before the court on petitioner's Motion to Reopen Petition for Writ of Habeas Corpus, filed July 25, 2008. Granted. Respondent shall file response.

Petitioner, currently confined at the Anamosa State Penitentiary, Anamosa, Iowa, seeks reinstatement of his action under 28 USC §2254 to challenge the legality of a conviction and sentence imposed by the Iowa District Court for Winneshiek County. On July 1, 2008, the court entered an order dismissing this matter unless petitioner submitted the filing fee or an application to proceed in forma pauperis by not later than July 14, 2008. The case was dismissed on July 21, 2008, however, petitioner submitted the filing fee that day as well. The filing fee having been received and the dismissal being without prejudice, the matter shall be reopened as an active case.

In support of his Petition, petitioner asserts that his conviction and sentence are based upon evidence not included in a Trial Information, Bill of Particulars or motions (Ground 1), that his conviction was obtained by the use of inadmissible evidence (Ground 2), that his simultaneous prosecution for unauthorized use of an offensive weapon was unduly prejudicial (Ground 3), and that the prosecution violated a sequestration order (Ground 4), all as set forth in the Petition.

Pursuant to Rule 4 and 5 of the Rules Governing Section 2254 Cases, Respondent shall file a response to the Petition.


It is therefore

ORDERED

1. Motion to Reopen granted.

2. On behalf of the appropriate officer, by not later than Monday, October 20, 2008, the Attorney General of Iowa shall file a response pursuant to Rule 4 and 5 of the Rules Governing Section 2254 Cases.

September 9, 2008.


Edward J. MoManus, Judge
UNITED STATES DISTRICT COURT