

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CHARLES L. JONES,

Petitioner,

v.

REX PRYOR, et al.,

Respondents.

Case No. 12-3055-JAR

ORDER

On January 30, 2020, this Court granted Petitioner Charles Jones' Motion for Leave to Amend, allowing him to amend his habeas petition under 28 U.S.C. § 2254 to add a claim alleging due process violations under *Brady v. Maryland*.¹ Petitioner filed the amended Petition on January 31, 2020.² Petitioner's new claim is unexhausted. Under the total exhaustion rule, the Court is required to dismiss the petition without prejudice to allow the petitioner to return to state court and present the unexhausted claim.³ Alternatively, under *Rhines v. Weber*, the Court is permitted to stay and hold the case in abeyance while the petitioner exhausts the unexhausted claim.⁴ The Court can stay and hold the petition in abeyance under *Rhines* if the Petitioner demonstrates: (1) good cause for the failure to exhaust; (2) the unexhausted claims are potentially meritorious; and (3) there is no indication that Petitioner engaged in intentionally dilatory litigation tactics.⁵

¹Doc. 148; 373 U.S. 83 (1963).

²Doc. 149.

³*Rose v. Lundy*, 455 U.S. 509, 522 (1982).

⁴544 U.S. 269 (2005).

⁵*Id.* at 278.

Before the Court is the parties' Joint Motion for Stay and Abeyance (Doc. 150). The parties' motion explains in detail how the three *Rhines* requirements are met in this case. For substantially the same reasons set forth in the parties' joint motion, the Court finds that Petitioner has made the requisite showing under *Rhines*, and is entitled to have this case stayed and held in abeyance while he exhausts his new claim in state court.

IT IS THEREFORE ORDERED BY THE COURT that the parties' Joint Motion for Stay and Abeyance (Doc. 150) is **granted**. This case is stayed and held in abeyance while Petitioner returns to the Kansas state courts to seek a ruling on his new due process claim. The statute of limitations will be tolled while Petitioner seeks relief in state court. Petitioner is directed to file a status report with the Court every four (4) months, informing the Court of the status of the state court proceedings.

IT IS SO ORDERED.

Dated: February 28, 2020

S/ Julie A. Robinson
JULIE A. ROBINSON
CHIEF UNITED STATES DISTRICT JUDGE