

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE**

KENNETH GOBEN

PETITIONER

v.

CIVIL ACTION NO. 3:12-CV-P496-S

MARK BOLTON

RESPONDENT

MEMORANDUM OPINION

Petitioner, Kenneth Goben, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 as well as two others on the same day, each relating to a different state-court conviction. *See* DN 1; *Goben v. Bolton*, 3:12-CV-P495-H; *Goben v. Bolton*, 3:12-CV-P497-S. To warrant relief under § 2241, a petitioner is required to exhaust his state remedies prior to bringing such an action. *Atkins v. Michigan*, 644 F.2d 543, 546 (6th Cir. 1981). Unless unusual or exceptional circumstances make it appropriate to reach the merits of a claim not first exhausted in the state court, the habeas petition should be dismissed. *Granberry v. Greer*, 481 U.S. 129, 134 (1987); *O'Guinn v. Dutton*, 88 F.3d 1409, 1413 (6th Cir. 1996) (en banc).

Because it appeared from the petitions that Petitioner had not pursued his state-court remedies, in each case Petitioner was ordered to show cause why his petition should not be dismissed for failure to exhaust his state-court remedies. Petitioner did not file a response in this case. However, in No. 3:12-CV-P495-H Petitioner responded with a motion to withdraw his petition so as to present his unexhausted claims to the state court before returning to this Court. He acknowledged in that motion that he had not yet exhausted his claims in state court. His motion was granted, and his petition was dismissed without prejudice.

Accordingly, in the instant case, based on Petitioner's failure to respond to the show-cause order, the Court finds that dismissal without prejudice is warranted. A separate Order will

be entered.

Date:

cc: Petitioner, *pro se*
Respondent
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4411.009