

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

TERRANCE T. BROWN

CIVIL ACTION NO. 09-2147

VERSUS

SECTION P

CPL. MATT HILL, ET AL.

JUDGE ROBERT G. JAMES

MAGISTRATE JUDGE KAREN L. HAYES

RULING

_____ Pending before the Court is a Petition for Writ of *Habeas Corpus* filed pursuant to 28 U.S.C. § 2241 by petitioner Terrance R. Brown. On February 16, 2010, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 8], recommending that Petitioner's Petition for Writ of *Habeas Corpus* be dismissed for failure to exhaust available state court remedies and for failure to state a claim for which relief may be granted. On February 25, 2010, Petitioner filed objections to the Report and Recommendation.

In response, on March 18, 2010, Magistrate Judge Hayes issued a Supplemental Report and Recommendation [Doc. No. 11] addressing additional arguments raised in Petitioner's objections and recommending that the Petition be dismissed for failure to exhaust state court remedies.

On March 30, 2010, this Court issued a Judgment [Doc. No. 12] adopting Magistrate Judge Hayes' Reports and Recommendations and dismissing Petitioner's claims for failing to exhaust available state court remedies and for failing to state a claim for which relief may be

granted.

On March 31, 2010, Petitioner mailed his motion for an extension of time to file objections to the Supplemental Report and Recommendation. Magistrate Judge Hayes denied the motion as moot.

Upon review, the Court found that its March 30, 2010 Judgment was improperly entered. Accordingly, on April 15, 2010, the Court issued an Order [Doc. No. 15] vacating the March 30, 2010 Judgment and granting Petitioner an extension of time until April 28, 2010, to place in the prison mailing system any objections to Magistrate Judge Hayes' Supplemental Report and Recommendation [Doc. No.11].

On April 20, 2010, the Clerk of Court received Petitioner's objections [Doc. No. 16] to Magistrate Judge Hayes' Supplemental Report and Recommendation.

The Court has now reviewed the entire record in this matter, including Petitioner's objections, and his latest exhibits. In addition to the procedural history recounted in Magistrate Judge Hayes' Supplemental Report and Recommendation, Petitioner now presents evidence that he has made some type of filing with the Louisiana Supreme Court on March 24, 2010, and that the Clerk of Court for the Louisiana Supreme Court received that filing on March 30, 2010. However, Petitioner's evidence shows only that he has filed some unidentified document with the Louisiana Supreme Court in the three months since the same court instructed him to pursue his speedy trial claim with the district and appellate courts prior to seeking its review. The Court cannot find on the basis of this evidence that Petitioner has exhausted his state court remedies. Accordingly, the Court agrees with Magistrate Judge Hayes that Petitioner's lawsuit should be dismissed without prejudice at this time for failure to exhaust state court remedies. Once his

state court remedies have been exhausted, Petitioner may then file suit if his speedy trial claim has not been resolved to his satisfaction.

MONROE, LOUISIANA, this 26th day of April, 2010.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE