

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**SUSAN DELAUGHTER  
LA. DOC #495042  
VS.**

**CIVIL ACTION NO. 3:10-CV-0305  
SECTION P**

**WARDEN, LOUISIANA CORRECTIONAL  
INSTITUTE FOR WOMEN**

**JUDGE ROBERT G. JAMES  
MAG. JUDGE KAREN L. HAYES**

**RULING**

Pending before the Court is a Petition for Writ of *habeas corpus* filed by *pro se* Petitioner Susan Delaughter pursuant to 28 U.S.C. §2254. On April 29, 2010, the Magistrate Judge issued a Report and Recommendation [Doc. No. 4] in which she recommended that the Court dismiss this case without prejudice because Petitioner failed to exhaust her state court remedies. The Magistrate Judge further recommended that Petitioner's request for a stay be denied. As the Magistrate Judge points out, Petitioner does not run the risk of losing her opportunity for any federal review of her unexhausted claims. Although much of the one-year statute of limitations period imposed by 28 U.S.C. §2244(d) has run between March 21, 2009, and February 18, 2010, Petitioner will have the remaining time (approximately one month) to file any *habeas* action once she has exhausted her state court remedies. Accordingly, the Court agrees with and ADOPTS these portions of the Report and Recommendation.

However, the Court DECLINES TO ADOPT the Magistrate Judge's analysis regarding Petitioner's failure to pay the \$5.00 *habeas* filing fee or to submit a completed *in forma pauperis*

application. On May 10, 2010, the Clerk of Court received from Petitioner a letter explaining the steps she had taken to timely submit her *in forma pauperis* application and the obstacles she had encountered in having prison authorities send the application to the Court. [Doc. No. 5].

Petitioner also provided the appropriate documents to demonstrate she is entitled to proceed *in forma pauperis*. [Doc. No. 5]. Accordingly, on May 12, 2010, the Magistrate Judge issued an order [Doc. No. 6] granting Petitioner leave to proceed *in forma pauperis*. Now that Petitioner has been granted leave, the Magistrate Judge's analysis on this point is moot.

Therefore, for the foregoing reasons and those set forth in the Magistrate Judge's Report and Recommendation [Doc. No. 4], to the extent adopted, the instant Petition for Writ of *Habeas Corpus* is DISMISSED WITHOUT PREJUDICE because petitioner failed to exhaust available state court remedies prior to filing suit, and Petitioner's Motion to Hold Petition for Writ of Habeas Corpus in Abeyance [Doc. 2] is DENIED.

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

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE

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JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, to the extent adopted, and for those reasons stated in this Court's Ruling,

**IT IS ORDERED THAT** the instant Petition for Writ of Habeas Corpus be **DISMISSED WITHOUT PREJUDICE** because Petitioner failed to exhaust available state court remedies prior to filing; and,

**IT IS FURTHER ORDERED THAT** Petitioner's Motion to Hold Petition for Writ of Habeas Corpus in Abeyance [Doc. 2] is **DENIED**.

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

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE