

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 09-CV-11897-GAO

WILLIAM RAGLAND,
Petitioner,

v.

PETER ST. AMAND,
Respondent.

OPINION AND ORDER

April 22, 2010

O'TOOLE, D.J.

William Ragland's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 presents three grounds upon which his claim for relief is based. In his memorandum of law submitted in support of the petition, Ragland presented arguments in favor of only the first two grounds in his petition. After his memorandum of law had been filed, the respondent moved to dismiss the petition as "mixed" under the rule of Rose v. Lundy, 455 U.S. 509 (1982), because the third ground set out in the petition was not exhausted in the course of Ragland's state court appeal. Ragland does not appear to contest the unexhausted nature of the third ground, and argues instead that he asserts only the first two grounds.

The petition itself plainly asserts an unexhausted claim, and the petition is subject to dismissal in its entirety unless the unexhausted claim is voluntarily dismissed. It appears from Ragland's opposition to the respondent's motion to dismiss that it is his intention to dismiss the unexhausted claim and proceed only as to the first two, exhausted, grounds. Accordingly, Ragland is ordered to confirm within forty-two days

from the entry of this order that it is his intention to dismiss ground three in the petition. If he does so, the motion to dismiss the entire petition will be denied. If he does not do so, the entire petition will be dismissed.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge