

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
ANGEL AVILES,)	
)	
Petitioner,)	
)	
v.)	Civil Action No.
)	12-cv-40017-FDS
THOMAS DICKHAUT,)	
)	
Respondent.)	
_____)	

**MEMORANDUM AND ORDER
ON RESPONDENT’S MOTION TO DISMISS**

SAYLOR, J.

This is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 by a person in state custody. On April 10, 2013, the Court issued a memorandum and order finding that petitioner Aviles had failed to exhaust his available state remedies as to some of the claims contained in the petition. Accordingly, the Court ordered that respondent’s motion to dismiss the petition would be granted unless, within 30 days, petitioner filed a request to dismiss the unexhausted claims in his petition and proceed on the merits of the exhausted claims. That 30-day period has recently expired, and petitioner has not yet filed a request to dismiss the unexhausted claims contained in his petition.

For the foregoing reasons, respondent’s motion to dismiss the petition is GRANTED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: May 15, 2013