

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN ALLEN THOMASON, #376662,

Petitioner,

Civil No. 2:09-11012
Honorable Gerald E. Rosen

v.

NICK LUDWICK,

Respondent.

**OPINION AND ORDER GRANTING PETITIONER'S MOTION FOR "LEAVE TO FILE
AMENDED PETITION DELETING NON-EXHAUSTED ISSUES" [dkt. #34] AND
ORDERING RESPONDENT TO FILE SUPPLEMENTAL ANSWER**

Petitioner Steven Allen Thomason filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. He was convicted in Oakland County Circuit Court of second-degree criminal sexual conduct, MICH. COMP. LAWS §750.520c(1)(a). Petitioner is presently incarcerated at Mid-Michigan Correctional Facility in St. Louis, Michigan. He was sentenced to four years nine months to fifteen years' imprisonment. Pending before the Court is Petitioner's motion for "leave to file amended petition deleting non-exhausted issues" [dkt. #34]. For the reasons that follow, the Court will grant the motion.

On February 3, 2010, this Court issued an order denying Respondent's motion to dismiss the petition which was filed on the grounds that the petition contained two unexhausted claims. The Court found that Petitioner's admission of hearsay and great weight of the evidence claims were not exhausted. The Court gave Petitioner the option to either drop these two claims from his petition or to have his petition dismissed without

prejudice so that he could return to state court to exhaust these claims.

On May 26, 2010, Petitioner chose the first option, and filed the present motion seeking leave to delete his two unexhausted claims. The motion states that it was accompanied by a document titled "Petitioner's Amendment to Petition," but to date no such document has been filed with the Court.

Accordingly,

IT IS ORDERED that Petitioner's Motion for "Leave to File Amended Petition Deleting Non-Exhausted Issues" [dkt. #34] is **GRANTED**.

IT IS FURTHER ORDERED that Petitioner shall file an amended petition within forty-five (45) days of this order.

IT IS FURTHER ORDERED that Respondent shall file an answer within forty-five (45) days after receipt of the amended petition.

s/Gerald E. Rosen _____
Chief Judge, United States District Court

Dated: February 10, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 10, 2011, by electronic mail and upon Steven Thomason, #376662, Central Michigan Correctional Facility (STF), 8201 N. Croswell Road, St. Louis, MI 48880 by ordinary mail.

s/Ruth A. Gunther _____
Case Manager