

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY ALLEN DAWSON, #710532,

Petitioner,

v.

CASE NO. 2:11-CV-15626
HONORABLE GEORGE CARAM STEEH

LLOYD RAPELJE,

Respondent.

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OPINION AND ORDER GRANTING PETITIONER'S MOTION FOR NON-
PREJUDICIAL DISMISSAL, DISMISSING WITHOUT PREJUDICE THE HABEAS
PETITION, AND DENYING A CERTIFICATE OF APPEALABILITY

Michigan prisoner Timothy Allen Dawson ("Petitioner") has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 asserting that he is being held in violation of his constitutional rights. Petitioner was convicted of first-degree premeditated murder, MICH. COMP. LAWS § 750.316(1)(a), following a jury trial in the Kent County Circuit Court and was sentenced to life imprisonment without the possibility of parole in 2008. In his current petition, he raises claims concerning the admission of other acts evidence, prosecutorial misconduct, the admission of psychological testimony, restrictions on direct examination of a witness, and his inability to file a supplemental brief or obtain an evidentiary hearing on state appeal. Respondent has not yet filed an answer to the petition.

This matter is before the Court on Petitioner's motion to voluntarily dismiss his petition so that he may return to the state courts and exhaust additional issues concerning the effectiveness of trial and appellate counsel and prosecutorial misconduct. The Court previously denied Petitioner's motion to stay the proceedings and hold this case in

abeyance. Given that Petitioner seeks to exhaust additional issues in the state courts and that he has sufficient time to do so within the one-year statute of limitations applicable to federal habeas actions, dismissal of the present petition is appropriate.

Accordingly, the Court **GRANTS** Petitioner's motion for non-prejudicial dismissal of his petition and **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. The Court also **DENIES** a certificate of appealability as reasonable jurists could not debate the correctness of the Court's procedural ruling. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). This case is closed. Should Petitioner wish to seek federal habeas relief following the exhaustion of state court remedies, he must file a new habeas petition in federal court within the time remaining on the one-year period of limitations.

IT IS SO ORDERED.

Dated: May 23, 2012

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on May 23, 2012, by electronic and/or ordinary mail and also to Timothy Dawson at Saginaw Correctional Facility, 9625 Pierce Road, Freeland, MI 48623.

S/Josephine Chaffee
Deputy Clerk