

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HILLIARD WILSON,

Petitioner,

v.

Civil No. 2:12-CV-14597

HONORABLE NANCY G. EDMUNDS

UNITED STATES DISTRICT JUDGE

THOMAS WINN,

Respondent,

**OPINION AND ORDER DENYING THE MOTION TO COMPEL THE PRODUCTION
OF RULE 5 MATERIALS, GRANTING THE MOTION TO EXPAND THE RECORD,
AND DIRECTING THE CLERK OF THE COURT TO PROVIDE PETITIONER WITH A
COPY OF THE DOCKET ENTRIES IN 2:12-14597**

Hilliard Wilson, (“Petitioner”), confined at the Saginaw Correctional Facility in Freeland, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The case was originally held in abeyance so that petitioner could return to the state court to exhaust additional claims. See *Wilson v. Rapelje*, No. 2:12-CV-14597; 2013 WL 450087 (E.D. Mich. February 5, 2013). On January 28, 2015, the Court reopened the petition to the Court’s active docket and ordered respondent to file an answer and the Rule 5 materials by August 11, 2015. Respondent filed an answer and the Rule 5 materials on August 6, 2015. [See Dkt. ## 13 and 14].

Petitioner has now sent a letter to this Court. Petitioner requests a copy of the docket entries in his case. Petitioner has also mailed a copy of the Amended Judgment of Sentence in his state court case and asks that it be made a part of the Court record. Finally, petitioner claims that this Court has not yet received the Rule 5 materials nor has he yet to receive a notice of the Rule 5 materials.

To the extent that petitioner is asking the Court to order the Rule 5 materials, petitioner's request is moot. The habeas corpus rules require respondents to attach the relevant portions of the transcripts of the state court proceedings, if available, and the court may also order, on its own motion, or upon the petitioner's request, that further portions of the transcripts be furnished. *Griffin v. Rogers*, 308 F. 3d 647, 653 (6th Cir. 2002); Rules Governing § 2254 Cases, Rule 5, 28 U.S.C. foll. § 2254. A review of the Court's docket indicates that the transcripts from petitioner's trial and the pleadings from the direct appeals and state post-conviction proceedings have been provided to the Court. Accordingly, there is no reason to compel the production of these documents. Any motion to order respondent to file the specified Rule 5 materials will therefore be denied. See *Burns v. Lafler*, 328 F. Supp. 2d 711, 717-18 (E.D. Mich. 2004).

The Court will grant petitioner's request to make the Amended Judgment of Sentence [Dkt. # 15] part of the court record. Rule 7 (a) of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254, indicates that if a habeas petition is not summarily dismissed, the district court judge "may direct the record be expanded by the parties by the inclusion of additional materials relevant to the determination of the merits of the petition." A federal district court judge may employ a variety of measures to avoid the necessity of an evidentiary hearing in a habeas case, including the direction to expand the record to include evidentiary materials that may resolve the factual dispute without the need for an evidentiary hearing. *Blackledge v. Allison*, 431 U.S. 63, 81-82 (1977). Petitioner requests the Court to expand the record to include materials which may support his claims. Because these materials may help resolve any factual disputes in this case, the Court will permit the court record to be expanded to include the Amended Judgment of Sentence.

Finally, the Court will order the Clerk of the Court to provide a copy of the Court Docket Entries in this case to petitioner.

ORDER

Based upon the foregoing, the motion to compel the production of Rule 5 materials is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that Petitioner's motion for expansion of the record is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to provide petitioner with a copy of the Court docket entries in Case 2:12-CV-14597.

s/ Nancy G. Edmunds _____
HON. NANCY G. EDMUNDS
UNITED STATES DISTRICT COURT

DATED: August 17, 2015