

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHELTON CARTER,

Petitioner,

v.

Case No. 2:14-CV-11030
Honorable Patrick J. Duggan

CARMEN PALMER,

Respondent.

**ORDER GRANTING MOTION TO EXTEND THE STAY OF
PROCEEDINGS**

This is a habeas case under 28 U.S.C. § 2254. Michigan prisoner Shelton Carter (“Petitioner”) was convicted of assault with intent to do great bodily harm less than murder, Mich. Comp. Laws § 750.84, assault with intent to rob while armed, Mich. Comp. Laws § 750.89, and possession of a firearm during the commission of a felony, Mich. Comp. Laws § 750.227b, following a jury trial in the Wayne County Circuit Court in 2009. He was sentenced to 4 to 10 years imprisonment on the assault with intent to do great bodily harm conviction, a concurrent term of 14 to 40 years imprisonment on the assault with intent to rob conviction, and a consecutive term of 2 years imprisonment on the felony firearm conviction.

In his pleadings, Petitioner raises claims concerning the trial court's policy of closing the courtroom for jury selection, trial counsel's failure to object to the courtroom closure, failure to object to a defective verdict form, and failure to investigate, appellate counsel's failure to raise the courtroom closure issue on appeal, the trial court's factual determination regarding photographic arrays shown to the victim, the sufficiency of the evidence, and the jurors' submission of questions to witnesses. This case was initially stayed and administratively closed to allow Petitioner to exhaust state court remedies as to three courtroom closure claims.

This matter is now before the Court on Petitioner's motion to extend the stay. Petitioner asserts that he completed the state court process as to his unexhausted claims, but now seeks additional time to exhaust state court remedies as to five new claims concerning double jeopardy, alleged jurisdictional defects arising from the preliminary examination, the sufficiency of the evidence under the aiding and abetting statute, and the indictment, and the denial of counsel at trial, which he believes are based upon newly-discovered evidence. Petitioner indicates that he is preparing another successive motion for relief from judgment for submission to the state trial court. Having considered the matter, the Court finds that an extension of the stay is warranted to allow Petitioner to fully exhaust state

court remedies as to his additional claims.

Accordingly,

IT IS ORDERED that Petitioner's motion to extend the stay of proceedings is **GRANTED** and this case remains stayed. The stay is conditioned on Petitioner's return to this Court with a motion to re-open this case and proceed on an amended petition within **THIRTY (30) DAYS** of exhausting state court remedies. *See Palmer v. Carlton*, 276 F.3d 777, 781 (6th Cir. 2002) (adopting approach taken in *Zarvela v. Artuz*, 254 F.3d 374, 381 (2d Cir. 2001)). Should Petitioner fail to comply with the Court's conditions, his case may be subject to dismissal. This case remains **CLOSED** for administrative purposes pending compliance with these conditions.

Dated: October 9, 2015

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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