

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS JONES, #221006,

Petitioner,

v.

CASE NO. 2:14-CV-14253
HONORABLE DENISE PAGE HOOD

DUNCAN MACLAREN,

Respondent.

_____ /

**ORDER DENYING PETITIONER'S MOTION FOR
REASSIGNMENT/REOPENING OF CASE**

This matter is before the Court on habeas petitioner Curtis Lewis Jones' "Motion for Reassignment of Case" in which he seeks to reopen this closed habeas case and proceed on an amended habeas petition. On January 30, 2015, the Court dismissed his original habeas petition without prejudice on exhaustion grounds. The Court did not retain jurisdiction over the case. Petitioner now seeks to proceed on federal habeas review asserting that he has attempted, albeit unsuccessfully, to exhaust his claims in the state courts.

Petitioner cannot amend his prior habeas petition because it is no longer pending before this Court. While a federal court generally has discretion to allow amendment of a civil complaint, *see* Fed. R. Civ. P. 15(a), such is not the case where,

as here, the Court has already dismissed the case. Under Federal Rule of Civil Procedure 15, once a judgment has been entered in a case, the filing of an amendment is not allowed unless the judgment has been set aside or vacated. *See In re Ferro Corp. Derivative Litigation*, 511 F.3d 611, 624 (6th Cir. 2008); *accord Griffey v. Lindsey*, 345 F.3d 1058, 1062 (9th Cir. 2003); *Pitts v. Champion*, 16 F. App'x 975, 977 (10th Cir. 2001); *Harris v. City of Auburn*, 27 F.3d 1284, 1287 (7th Cir.1994). No such action has occurred here. The Court dismissed the original petition, closed the case, and did not retain jurisdiction over the matter. Petitioner's proper recourse is to file a new habeas petition in accordance with the federal rules, not to reopen this closed case. Accordingly, the Court **DENIES** Petitioner's motion. This case remains closed. The Court expresses no opinion at this time as to whether Petitioner has sufficiently exhausted available state court remedies.

IT IS SO ORDERED.

s/Denise P. Hood
DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE

Dated: December 30, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 30, 2015, by electronic means and/or ordinary mail.

s/K. Jackson
CASE MANAGER
(313) 234-5014