

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE TAYLOR,

Petitioner,

v.

Case Number 16-14478

Honorable David M. Lawson

SHIRLEE HARRY,

Respondent.

ORDER OF DISMISSAL

On December 21, 2016, petitioner Dwayne Taylor, presently confined at the Earnest C. Brooks Correctional Facility in Muskegon Heights, Michigan, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On December 28, 2016, the Court ordered the petitioner to submit the \$5.00 filing fee or an application to proceed *in forma pauperis* within twenty one days. The petitioner has failed to submit either the filing fee or an application to proceed *in forma pauperis*, and the time for doing so now has passed.

Where a petitioner who seeks habeas corpus relief does not comply with a district court's directions in a deficiency order and fails either to pay the filing fee or to provide the required documentation to support an application to proceed *in forma pauperis*, the district court must presume that the prisoner is not a pauper, assess the full filing fee, and dismiss the case for want of prosecution. *Gravitt v. Tyszkiewicz*, 14 F. App'x 348, 349 (6th Cir. 2001) (citing *McGore v. Wrigglesworth*, 114 F. 3d 601, 605 (6th Cir. 1997)). The deficiency order clearly stated that the petitioner was required to submit either the \$5.00 filing fee or an application to proceed *in forma pauperis* and warned the petitioner that failure to comply with the order could result in the dismissal of his petition. Because the petitioner failed to pay the filing fee or submit the required application

to proceed *in forma pauperis*, his petition is subject to dismissal for want of prosecution.

After the Court issued the notice of deficiency for failure to pay the required filing fee, the petitioner responded with a request to stay the proceedings on his petition, in which he contends that the demand for a filing fee by the Court is an attempt to “extort money” from him. The petitioner’s request for a stay does not, however, identify any legal authority that would allow him to proceed with the present petition without either paying the required fee or obtaining leave to proceed *in forma pauperis*. He also does not indicate when he intends to pay the fee, or that he intends to do so at all. And he has not identified any legal authority that would permit the Court to “stay” proceedings on a petition where those proceedings are not in the first instance authorized to proceed. The Court therefore will dismiss the petition without prejudice.

Accordingly, it is **ORDERED** that the petition is **DISMISSED** without prejudice.

It is further **ORDERED** that the petitioner’s request to stay proceedings [dkt. #4] is **DENIED** as moot.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: January 30, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 30, 2017.

s/Susan Pinkowski
SUSAN PINKOWSKI