

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                    |   |                   |
|--------------------|---|-------------------|
| DANNY PARKER-BEY,  | ) |                   |
|                    | ) |                   |
| Petitioner,        | ) |                   |
|                    | ) |                   |
| v.                 | ) | No. 4:07CV632 DDN |
|                    | ) |                   |
| STATE OF MISSOURI, | ) |                   |
|                    | ) |                   |
| Respondent.        | ) |                   |

MEMORANDUM AND ORDER

This matter is before the Court on Parker-Bey’s petition for writ of habeas corpus. Petitioner filed the petition on a state court form, and the caption of the petition indicates that it was to be filed in the Circuit Court of the City of St. Louis, Missouri. However, petitioner mailed the petition to this Court, and the Clerk properly docketed the petition pursuant to Rules 3 and 5(e) of the Federal Rules of Civil Procedure.

The Court is unable to determine whether petitioner intended to file his petition in state court or in this Court. As a result, the Court will allow plaintiff to either withdraw the petition so that he can file it in state court or properly file a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in this Court.

If petitioner wishes to withdraw the petition, he should file a “motion to dismiss the petition” with the Court.

If petitioner wishes to pursue his petition in this Court, he must either pay the \$5 filing fee or file a motion to proceed in forma pauperis. Additionally, petitioner must refile the petition

using the Court-provided form, "Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody." The Court will order the Clerk to mail petitioner a copy of the necessary forms.

Petitioner shall respond to this Order within 30 days. If petitioner fails to timely respond to this Order, the Court may dismiss the petition without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner shall either file a motion to dismiss his petition or refile his petition in accordance with the terms of this Memorandum and Order. Petitioner shall respond to this Order within 30 days or the Court may dismiss the petition.

**IT IS FURTHER ORDERED** that the Clerk shall mail to petitioner a copy of the form "Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody" and a copy of the form "Motion to Proceed In Forma Pauperis and Affidavit in Support, Habeas Corpus."

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/S/ David D. Noce  
**DAVID D. NOCE**  
**UNITED STATES MAGISTRATE JUDGE**

Signed on April 5, 2007.