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federal court must determine if the exhaustion requirement has nonetheless been met because there are no ‘currently available, non-futile remedies, through which the petitioner can present his claim.’ Id. (citation omitted).

Faced with a § 2254 petition which includes both exhausted and unexhausted claims, “a district court... has discretion to enter a stay to allow the petitioner to present his unexhausted claims to the state court in the first instance, preserving the petitioner’s ability to return to federal court for review of his perfected petition.” Akins v. Kenney, 410 F.3d 451, 455 (8th Cir. 2005) (citing Rhines v. Weber, 544 U.S. 269, 276 (2005)). “[S]tay and abeyance is only appropriate when the district court determines there [is] good cause for the petitioner’s failure to exhaust his claims first in state court.” Id. at 455 (quoting Rhines, 544 U.S. at 276). It is within a district court’s discretion to determine whether it should stay § 2254 habeas proceedings. Id. at 456.

The United States Supreme Court held in Rhines v. Weber, 544 U.S. 269, 276 (2005), that a district court has the discretion to stay a § 2254 petition and hold it in abeyance while a petitioner returns to state court to exhaust previously unexhausted claims. “Because granting a stay effectively excuses a petitioner’s failure to present his claims first to the state courts. stay and abeyance is only appropriate when the district court determines there was good cause for the petitioner’s failure to exhaust his claims first in state court.” Id. at 277. And, if good cause is shown, “the district court would abuse its discretion if it were to grant [a petitioner] a stay when his unexhausted claims are plainly meritless.” Id. Also relevant is whether there is a state court remedy for the unexhausted claims. See Armstrong v. Iowa, 418 F.3d 924, 926 (8th Cir. 2005).

Given the posture of the state court habeas proceedings¹ and Respondent's addressing the merits of all of Petitioner's claims raised in the state court habeas proceedings, the Court declines to grant Petitioner a stay at this time. Further, Petitioner has not suggested good cause to stay his § 2254 habeas pending the exhaustion of his State remedies. Therefore, for all the foregoing reasons,

IT IS HEREBY ORDERED that Petitioner's Motion to Hold Federal Habeas Corpus Relief Proceedings in Abeyance Pending Exhaustion of State Remedies (Docket No. 8) is **DENIED**.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 29th day of December, 2010.

¹The undersigned construes the record as showing that Petitioner did not file a state habeas petitioner in the Missouri Court of Appeals, Western District. See Missouri Case.net <https://www.courts.mo.gov/casenet/cases/searchLitigantName/searchFilingDate> (last visited Dec. 22, 2010).