

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHAWN THOMAS,)	
)	
Petitioner,)	
)	
v.)	No. 4:14CV1210 AGF
)	
TERRY RUSSELL,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

This matter is before the Court on petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. It appears that petitioner has failed to exhaust state remedies before bringing this action. As a result, the Court will order petitioner to show cause why the petition should not be summarily dismissed without prejudice.

On February 7, 2013, petitioner was convicted by a jury of first degree statutory rape, first degree endangering the welfare of a child, and third degree assault. Missouri v. Thomas, 1122-CR01085-01 (City of St. Louis). Petitioner appealed, and petitioner’s direct appeal is still pending before the Missouri Court of Appeals, Eastern District. Missouri v. Thomas, No. 99781 (Mo. Ct. App.). As of this date, the state has not filed its appellee brief.

Under 28 U.S.C. § 2254(b)(1)(A), the Court cannot grant relief in a habeas action unless “the applicant has exhausted the remedies available in the courts of the State.” Petitioner has not exhausted available state remedies, which include the filing of a Rule 29.15 motion for postconviction relief in the state courts. Therefore, it appears that the Court cannot grant relief in this action.

Accordingly,

IT IS HEREBY ORDERED that petitioner shall show cause, no later than **August 14, 2014**, why this action should not be dismissed for failure to exhaust state remedies.

IT IS FURTHER ORDERED that petitioner's motion for leave to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

Dated this 15th day of July, 2014.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE