

**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. Petitioner did not exhaust state remedies before bringing this action. As a result, the Court will dismiss this action 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.).

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, petitioner is not entitled to relief at this time.

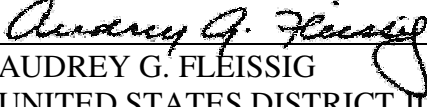
Finally, petitioner has failed to demonstrate that jurists of reason would find it debatable whether he exhausted his available remedies. Thus, the Court will not issue a certificate of appealability. 28 U.S.C. 2253(c).

Accordingly,

IT IS HEREBY ORDERED that petitioner's petition for writ of habeas corpus is **DENIED** and **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 19th day of August, 2014.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE