

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHRISTOPHER JAMES IVORY,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:14 CV 2093 RWS
)	
JAY CASSADY and CHRIS KOSTER,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

Petitioner Christopher James Ivory seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Patricia L. Cohen for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On February 9, 2016, the Magistrate Judge filed her recommendation addressing the motion of Respondents Jay Cassady and Chris Koster to set aside the show cause order, Respondents’ motion to dismiss, and Petitioner’s motion for stay and abeyance. See [#31]. The Magistrate Judge recommends denying without prejudice Respondents’ motion to set aside the show cause order, dismissing without prejudice Petitioner’s two unexhausted grounds for relief, and the continued consideration of Petitioner’s exhausted grounds for relief.

Petitioner timely objected to the Magistrate Judge’s Report and Recommendation on February 22, 2016. Petitioner’s sole objection is that the Magistrate Judge erroneously stated that Petitioner was convicted of “forcible rape” rather than “attempt forcible rape.” See [#32]. Petitioner is correct that his conviction was for attempted forcible rape and not forcible rape, so the record shall reflect that fact.

As for the merits of the Magistrate Judge's Report and Recommendation, after careful consideration, I will adopt and sustain the thorough reasoning of the Magistrate Judge and I will deny without prejudice Respondents' motion to set aside the show cause order, dismiss without prejudice Petitioner's two unexhausted grounds for relief (grounds ten and thirty), and will refer this case back to Magistrate Judge Patricia L. Cohen for a report and recommendation on all remaining dispositive and non-dispositive matters. 28 U.S.C. § 636(b).

Accordingly,

IT IS HEREBY ORDERED that Judge Cohen's Report and Recommendation #[31] filed on February 2, 2016 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Respondents' motion to set aside the show-cause order #[15] is **DENIED** without prejudice.

IT IS FURTHER ORDERED Respondents' motion to dismiss #[16] and Petitioner's motion for stay and abeyance #[22] are **DENIED** in part and **GRANTED** in part so that the two unexhausted grounds for relief, grounds ten and thirty, are dismissed without prejudice.

IT IS FURTHER ORDERED that an Amended Case Management Order referring this case back to Magistrate Judge Patricia L. Cohen for a report and recommendation on all dispositive and non-dispositive matters and re-setting case management deadlines will be issued by separate order.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 26th day of February, 2016.