

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTONIO BANKS,)
)
 Petitioner,)
)
 v.)
)
 STATE OF NEBRASKA, and)
 ROBERT HOUSTON,)
)
 Respondents.)

4:10CV3162

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. On September 2, 2011, the court granted Petitioner’s Motion for a Stay and Abeyance. (Filing No. [27](#).) In that Memorandum and Order, the court granted Petitioner until October 31, 2011, to pursue his state-court remedies. (*Id.*) The court also required that Petitioner file a status report no later than October 31, 2011, advising the court regarding whether he had done so. (*Id.*)

On October 31, 2011, Petitioner filed a Status Report. (Filing No. [29](#).) In his Status Report, Petitioner states, “[p]lease find enclosed a copy of Verified Motion for Post conviction Relief, as required by your Court.” (*Id.* at CM/ECF p. 1.) Petitioner then requests that this court provide the Lancaster County, Nebraska District Court with this pleading. (*Id.*) Petitioner’s Status Report does not show that he actually filed the “Verified Motion for Post Conviction Relief” in state court, although the Clerk of the Lancaster County District Court is copied on the filing. (*Id.*) This court is not the appropriate court in which to file the “Verified Motion for Post Conviction Relief.” Petitioner must file that document in state court in order to pursue his state-court remedies.

IT IS THEREFORE ORDERED that:

1. Petitioner must pursue his state-court remedies. This court cannot file documents in state court on Petitioner's behalf. Petitioner shall have until December 2, 2011, in which to pursue state court remedies. In the event that Petitioner fails to pursue state court remedies by December 2, 2011, the court will lift the stay and rule on the merits of the Petition (filing no. 1) without further notice.

2. Petitioner must file another status report advising the court whether Petitioner has pursued state court remedies no later than December 2, 2011.

3. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: December 2, 2011: deadline for Petitioner to pursue exhaustion of Claim Two in state court and to file written status report.

DATED this 3rd day of November, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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