

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM TRAVION HARRIS,)	
)	
Petitioner,)	8:15CV438
)	
v.)	
)	
STATE OF NEBRASKA,)	MEMORANDUM AND ORDER
)	
Respondent.)	
)	

After Respondent’s counsel agreed that Harris should be given a stay and abeyance pursuant [Rhines v. Weber](#), 544 U.S. 269 (2005), Petitioner filed a timely reinstated postconviction appeal. The state courts then took up and denied the reinstated postconviction appeal. After that, I entered a new progression order. As required, Respondent filed an answer (filing no. [42](#)), together with all the relevant state court records (filing no. [41](#))¹.

Respondent’s superb and eminently fair counsel (Erin E. Tangeman) also filed an extremely well-written brief (filing no. [43](#)) arguing that all claims save for a portion of one claim were procedurally defaulted and the portion of the claim that was not procedurally defaulted must be denied given the deference that I must accord to a ruling on the merits by the state courts. Harris did not respond. The time for doing so passed more than two weeks ago.

This matter has been pending since December 3, 2015. Since Harris has not filed a response, and since I have independently determined that the brief submitted by counsel for Respondent fully and correctly sets forth the facts and the law, I need

¹ See also filing no. [15](#) and filing no. [18](#).

not gild the lily. Adopting the reasoning of Respondent, I find and conclude that Harris is not entitled to relief.

Finally, a petitioner cannot appeal an adverse ruling on his petition for writ of habeas corpus under § 2254 unless he is granted a certificate of appealability. [28 U.S.C. § 2253\(c\)\(1\)](#); [28 U.S.C. § 2253\(c\)\(2\)](#); [Fed. R. App. P. 22\(b\)\(1\)](#). The standards for certificates (1) where the district court reaches the merits or (2) where the district court rules on procedural grounds are set forth in [Slack v. McDaniel, 529 U.S. 473, 484-485 \(2000\)](#). I have applied the appropriate standard and determined that Petitioner is not entitled to a certificate of appealability.

IT IS ORDERED that:

1. The habeas corpus petition (filing no. [1](#)) is denied and dismissed with prejudice.
2. No certificate of appealability has been or will be issued.
3. A separate judgment will be issued.

DATED this 2nd day of April, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge