

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Michael Leon Hammell

v.

Civil No. 06-cv-176-SM

Warden, New Hampshire State Prison

O R D E R

Pro se petitioner Michael Leon Hammell has filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state court conviction and confinement (document no. 1). The petition is before me for preliminary review. See Rule 4 of the Rules Governing Section 2254 Proceedings ("Habeas Rules") (requiring initial review to determine whether the petition is facially valid and may be served); United States District Court for the District of New Hampshire Local Rules 4.3(d) (authorizing the magistrate judge to preliminarily review *pro se* pleadings).

For the reasons stated in the report and recommendation issued simultaneously herewith, I recommend that the petition be served on the respondent as to Grounds Two, Three and Four. The remaining claim, Ground One, fails to state a claim upon which

federal habeas relief may be granted, therefore, I have recommended that it be dismissed.

Accordingly, I order the petition to be served on the respondent. See Rule 4 of the Rules Governing § 2254 Proceedings (“§ 2254 Rules”). Respondent shall file an answer or other pleading in response to the allegations made therein. See id. (requiring reviewing judge to order a response to the petition). The Clerk’s office is directed to serve the New Hampshire Office of the Attorney General as provided in the Agreement On Acceptance Of Service, copies of this Order and the habeas petition (document no. 1). Respondent shall answer or otherwise plead within thirty (30) days of the date of this Order. The answer shall comply with the requirements of § 2254 Rule 5 (setting forth contents of the answer).

Upon receipt of the response, the Court will determine whether a hearing is warranted. See § 2254 Rule 8 (providing circumstances under which a hearing is appropriate).

Petitioner is referred to Fed. R. Civ. P. 5, which requires that every pleading, written motion, notice, and similar paper, after the petition, shall be served on all parties. Such service

is to be made by mailing the material to the parties' attorneys.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: May 26, 2006

cc: Michael Leon Hammell, *pro se*