

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

William J. Walker, Jr.

v.

Civil No. 12-cv-99-PB

Richard M. Gerry, Warden,
New Hampshire State Prison

O R D E R

William J. Walker, Jr. filed a petition for a writ of habeas corpus (doc. no. 1), pursuant to 28 U.S.C. § 2254, challenging his state court incest conviction. On April 4, 2012, the court issued an order (doc. no. 3) staying this action to enable Walker to return to the state courts to exhaust the federal claims raised in his habeas petition. In that order, the court directed Walker to file reports every ninety days, advising the court of the status of the state court proceedings.

Walker filed regular status reports (doc. nos. 4-8) in accordance with the April 4, 2012, order. On February 13, 2013, Walker filed a status report (doc. no. 8) advising the court that the New Hampshire Supreme Court had declined his appeal, and that he needed 180 days to research his habeas claims and file an amended habeas petition demonstrating exhaustion, due to his limited ability to access the prison law library. On February 19, 2013, the court issued an order continuing the stay

for ninety days, and directing Walker to file an amended petition demonstrating exhaustion, or to file a motion demonstrating good cause for further extension of the stay, within ninety days.

On May 17, 2013, Walker filed a motion (doc. no. 9) requesting an additional ninety days to prepare his amended habeas petition. On May 20, 2013, the court continued the stay in this matter for thirty days upon finding that Walker's assertions about limited law library access did not warrant a longer continuance. The court further warned Walker that his failure to file an amended petition could result in a recommendation that the petition be dismissed without prejudice for failure to demonstrate exhaustion of his state court remedies. See Order (doc. no. 10).

Walker's amended petition was due on June 19, 2013. Walker has not filed an amended petition. Nor has he filed any motion seeking a further extension. Accordingly, the court hereby lifts the stay. Within thirty days of the date of this order, Walker must either file an amended habeas petition, or show cause why his petition should not be dismissed, pursuant to 28 U.S.C. § 2254(b), for failure to demonstrate exhaustion. Walker should note that if this court dismisses his petition at this time, the statute of limitations is likely to be deemed to have expired on his claims, see 28 U.S.C. § 2244(d), precluding him

from obtaining federal habeas relief on any of his claims in the future.

Conclusion

For the foregoing reasons, the court lifts the stay in this action. Walker is directed to file an amended habeas petition, within thirty days of the date of this order, that:

1. identifies each federal constitutional claim that Walker intends to pursue in this action;
2. states facts supporting each claim; and
3. demonstrates that each federal claim has been exhausted in the state courts. This demonstration may be made by filing the briefs, motions, decisions, and any other documents that show that the federal claims in this matter have been presented to the New Hampshire Supreme Court for consideration.

Walker's failure to file an amended petition demonstrating exhaustion, as directed, without good cause shown therefor, will result in a recommendation that the petition be dismissed without prejudice, pursuant to 28 U.S.C. § 2254(b).

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

July 17, 2013
cc: William J. Walker, Jr., pro se

LBM:jba