

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

Robert Labrecque

v.

Civil No. 14-cv-503-JD

Edward Reilly, Warden, Northern
New Hampshire Correctional Facility

O R D E R

Robert Labrecque has filed a petition for a writ of habeas corpus (doc. no. 1),¹ challenging his state court conviction and sentence on the basis that he was denied his Sixth Amendment right to the effective assistance of counsel at trial. The matter is before the court for preliminary review. See Rule 4 of the Rules Governing Section 2254 Cases (“§ 2254 Rules”); LR 4.3(d)(4)(A).

Background

In his petition, Labrecque alleges that he was convicted of aggravated felonious sexual assault, incest, and endangering the welfare of a child in November 2009 and sentenced to, among other things, a lengthy prison term which he is presently serving. Labrecque has not stated whether, when, or on what

¹Labrecque challenges his conviction and incarceration pursuant to a state court judgment. As such, this action is arises under 28 U.S.C. § 2254, and is so construed for all purposes.

grounds, he litigated a direct appeal of his conviction in the New Hampshire Supreme Court ("NHSC").

In December 2013, Labrecque filed a petition for a writ of habeas corpus in the state Superior Court in which he argued that his trial counsel had failed to provide him with the effective assistance of counsel. The Superior Court denied Labrecque's petition. Labrecque appealed the denial of his state habeas petition to the NHSC. The NHSC declined the appeal on October 23, 2014. This action followed.

Without comment on whether the claims herein have been properly exhausted, or the timeliness of the petition, the court finds that the petition may proceed at this time without prejudice to the respondent's ability to move to dismiss the petition on any proper basis. Accordingly, the court directs service of the petition on the respondent, as described below, pursuant to § 2254 Rules 4 and 5.

Conclusion

The Clerk is directed to serve the New Hampshire Office of the Attorney General, as provided in the Agreement on Acceptance of Service: electronic copies of this Order and the Petition (doc. no. 1). Respondent shall file an answer, motion, or other response to the Petition within thirty days of service by the

Clerk. The answer shall comply with § 2254 Rule 5. This matter will thereafter proceed in accordance with LR 7.4.

SO ORDERED.



Andrea K. Johnstone
United States Magistrate Judge

March 30, 2015

cc: Robert Labrecque, pro se