

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

**CIVIL NO. 1:05CV355**

CHARLAYNE CRAWFORD, as )  
Mother and Next Friend of )  
Victoria Crawford (a minor child), )  
 )  
Petitioner, )  
 )  
Vs. ) **ORDER OF DISMISSAL**  
 )  
BUNCOMBE COUNTY )  
DEPARTMENT OF SOCIAL )  
SERVICES, )  
 )  
Respondent. )  
 )

**THIS MATTER** is before the Court on Petitioner's application to proceed without the prepayment of fees.

The affidavit in support of the application is incomplete. While the Petitioner indicated that she had worked within the past year, she did not provide the information required by the application. Nonetheless, because the action has no merit, the Court will grant the application but dismiss the action without service of process.

The Petitioner seeks a writ of habeas corpus to bring a juvenile currently in the custody of the Buncombe County Department of Social Services into federal court. She also asks that this Court conduct a review of pending state court neglect proceedings involving that child. There are many reasons why this Court may not interfere in the pending state court matters. First of all, habeas relief is not available until all state proceedings have been exhausted.

***District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983); *Gamble v. Calbone*, 375 F.3d 1021, 1026 (10<sup>th</sup> Cir. 2004); *Berry v. S.C. Dep't of Social Servs.*, 121 F.3d 697 (table), 1997 WL 499950 (4<sup>th</sup> Cir. 1997).** “[F]ederal habeas has never been available to challenge parental rights of child custody” even where a child has been placed in foster custody by court order, as is the case here. ***Lehman v. Lycoming County Children's Servs. Agency*, 458 U.S. 502, 510-11 (1982).** Second, the Petitioner in essence seeks to enjoin the state court proceedings. This Court will not interfere with pending state court proceedings under these circumstances. ***Younger v. Harris*, 401 U.S. 37, 45, 53-54 (1969); *Mandel v. Town of Orleans*, 326 F.3d 267, 273 (1<sup>st</sup> Cir. 2003); *Suggs v. Brannon*, 804 F.2d 274, 278-79 (4<sup>th</sup> Cir. 1986).**

**IT IS, THEREFORE, ORDERED** that the Petitioner's application to proceed without the prepayment of fees is hereby **GRANTED** and this action is hereby **DISMISSED**.

**IT IS FURTHER ORDERED** that the Petitioner's motions for an injunction, emergency injunction, indefinite restraining order, *ex parte* hearing, and to add additional Plaintiffs are hereby **DENIED** as moot.

**Signed: December 12, 2005**



Lacy H. Thornburg  
United States District Judge

