

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:09-CV-232-3-MU**

<b>KHOSROW PARMAEI,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>RICK JACKSON,</b>	)	
	)	
<b>Respondent,</b>	)	
	)	

**ORDER**

**THIS MATTER** comes before the court upon Petitioner’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, filed June 30, 2009. (Doc. No. 1).

**I. FACTUAL AND PROCEDURAL BACKGROUND**

A review of the Petitioner’s Petition reveals that a jury found Petitioner guilty of first degree murder on September 3, 2004. Petitioner appealed to the North Carolina Court of Appeals and his conviction was affirmed on November 7, 2006. Petitioner filed a petition for discretionary review which was denied on May 8, 2007. Petitioner did not file a petition for certiorari in the United States Supreme Court. However, Petitioner did begin his collateral attack by filing a motion for appropriate relief (“MAR”) in the Superior Court for Buncombe County on August 1, 2008, which was denied on December 17, 2008. Petitioner then filed an appeal of the denial of his MAR in the North Carolina Court of Appeals on February 6, 2009 and that petition is still pending. Therefore, Petitioner’s Petition filed in this Court is premature and will be dismissed without prejudice. 28 U.S.C. § 2254(b). Petitioner may re-file his Petition for Habeas

Corpus once the North Carolina Court of Appeals decides his petition, however, the Court cautions that Petitioner be mindful of the Antiterrorism and Effective Death Penalty Act's one year limitation period.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the Petitioner's Petition for Writ of Habeas Corpus is **DISMISSED** without prejudice.

**SO ORDERED.**

Signed: July 1, 2009

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

