

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

RICHARD J. JONES,

Petitioner,

: Case No. 1:14-cv-839

- vs -

District Judge Sandra S. Beckwith
Magistrate Judge Michael R. Merz

WARDEN, Lebanon
Correctional Institution,

:

Respondent.

DECISION AND ORDER

Requests for Stay

This habeas corpus case, brought *pro se* by Petitioner Richard Jones, is before the Court on Jones' Motion to Stay (ECF No. 9), Motion for Abeyance/Stay (ECF No. 13), and Amended Motion for Abeyance/Stay (ECF No. 14). The first two of these are denied as MOOT because of the filing of the Amended Motion.

In the Amended Motion, Jones asks that "all claims of relief [be stayed] while a delayed post-conviction petition decision is being appealed in the Ohio Appellate Courts due to newly-discovered evidence that was filed on October 14, 2014, that is still pending." PageID 1228. Jones attaches a Decision and Entry filed December 1, 2014, in the Butler County Common Pleas Court denying the petition for post-conviction relief as untimely. *Id.* at PageID 1230-31.

The Amended Motion for Stay was filed May 7, 2015. On September 28, 2015,

Respondent filed an Opposition (ECF No. 18) to Jones “Petition with Additional Grounds” (ECF No. 17). In the body of that document, Respondent points out that the Twelfth District Court of Appeals affirmed the dismissal of Jones’ post-conviction petition on June 1, 2015, and the Ohio Supreme Court declined to consider a further appeal on September 16, 2015. *Id.* at PageID 1282. Because Jones’ state court remedies are now exhausted, the Amended Motion for Stay is also denied as MOOT.

Amendments to the Petition and Reply

The Petition in this case was filed October 27, 2014. On Magistrate Judge Litkovitz’s Order, Respondent filed an Answer/Return of Writ on February 26, 2015 (ECF No. 8) and Jones filed a Reply on March 23, 2015 (ECF No. 10). At that point the pleadings in the case were closed and either party needed court permission to amend. See 28 U.S.C. § 2242 and Fed. R. Civ. P. 15. Without any permission from the Court, Jones a “Correction” to his Reply (ECF No. 11), a Notice of Amendment to Petition (ECF No. 12), another Amendment to Reply (ECF No. 16), “Additional Grounds” to the Petition (ECF No. 17), and an Amendment to Petition (ECF No. 20). All of these amendments to pleadings were made with court permission and are hereby STRICKEN.

Also before the Court is Jones’ Motion for Leave to File One Final Amendment (ECF No. 21). Without considering the substance of that Motion, it is DENIED because of improper form.

What Jones must do now if he wants the Court to consider any amendments to the

Petition is to prepare a proposed amended petition with ALL the habeas corpus claims he wants the Court to consider, attach it to a new motion to amend, and file it with this Court not later than November 20, 2015. Respondent will then have the time provided by S. D. Ohio Civ. R. 7.2 to respond to the motion to amend. If the Warden opposes the motion, Jones will have seventeen days from the filing of the opposition to file a reply in support of the motion.

November 5, 2015.

s/ *Michael R. Merz*
United States Magistrate Judge