

order to exhaust state remedies.” *Hafley v. Sowders*, 902 F.2d 480, 483 (6th Cir. 1990); *see also Hughes v. Stafford*, 780 F.2d 1580, 1581 (11th Cir. 1986); *Toney v. Franzen*, 687 F.2d 1016, 1021 (7th Cir. 1982).

Here, the Court takes judicial notice of the decision recently handed down by the Ohio appeals court on March 22, 2023. *See Lynch v. Leis*, 382 F.3d 642, 648 n.5 (6th Cir. 2004) (noting that a federal court can take judicial notice of another court’s records that are available online to members of the public). In the decision, the Ohio appeals court rejected the Petitioner’s claim of newly discovered evidence as a basis for postconviction relief and for a new trial. *State v. Jewett*, Case No. 22CA4004, 2023 WL 2620075 (Ohio Ct. App. Mar. 22, 2023). That decision has been appealed to the Supreme Court of Ohio. *State v. Jewett*, Case No. 23-0555 (Ohio Apr. 26, 2023).

Based on the foregoing, the Petitioner appears still to be in the process of exhausting his claim of newly discovered evidence through an appeal to the Supreme Court of Ohio. As the Magistrate Judge correctly found, the stay of these proceedings should therefore remain in place until the Petitioner’s state remedies are fully exhausted.

Accordingly, it is hereby **ORDERED** that the Report and Recommendation (Doc. 21) is **ADOPTED**. Consistent with the Report and Recommendation, Respondent’s motion to lift the stay (Doc. 18) is **DENIED**. Further, the Petitioner’s motion for an enlargement or extension of time to continue the stay (Doc. 19) is **GRANTED** to allow this case to remain stayed while Petitioner exhausts his claim for relief.

IT IS SO ORDERED.

Dated: May 5, 2023


Hon. Jeffrey P. Hopkins
United States District Judge