

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

SEAN WESTCOTT,)	
)	Civil No. 10-1291-JO
Petitioner,)	
)	
v.)	
)	
JOE DeCAMP, Superintendent,)	
Deer Ridge Correctional)	ORDER
Institution,)	
)	
Respondent.)	

JONES, District Judge.

In its Order dated November 1, 2010, the court directed petitioner to show cause why his Petition should not be denied on the basis that he has not exhausted his available state remedies as to each of his claims. See 28 U.S.C. § 2254(b). In his Response (#9), petitioner contends external factors impeded his ability to exhaust his claims in state court in that: (1) he was not given a copy of the state court Judgment, and thus, could not attach it to his Notice of Appeal as required by Oregon's appellate rules; (2) during the relevant period he was moved to seven different

housing units; (3) he had requested that the Oregon Public Defenders Office file an appeal on his behalf and had a good faith belief they had done so; (4) during the relevant period the department of corrections failed to forward his legal mail to him at the Lane County jail; and (5) "there are some issues arising out of Habeas which were not even 'ripe' at the time that the Petitioner was convicted, but which came about through the imposition of illegal sentencing in the Oregon Revised Statutes."

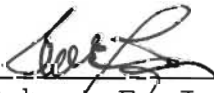
Based on the foregoing, the court finds petitioner may be able to demonstrate "cause and prejudice" for his failure to exhaust his claims. Accordingly, he has satisfied the court's Order to Show Cause (#6).

CONCLUSION

Based on the foregoing, petitioner has satisfied the court's Order to Show Cause (#6). Petitioner's motion for appointment of counsel (#7) is GRANTED. The Federal Public Defender, 101 S.W. Main, Suite 1700, Portland, Oregon 97204, is appointed to represent petitioner in this proceeding. See 18 U.S.C. § 3006A(a)(2)(B). The Clerk is directed to send the Federal Public Defender a copy of the Petition. Motions (#10, 11 & 12) are DENIED as moot.

IT IS SO ORDERED.

DATED this 7th day of February, 2011.



Robert E. Jones
United States District Judge