

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DANIEL ARTHUR HELEVA,	:	CIVIL ACTION NO. 1:07-CV-1398
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
WARDEN MRS. M. BROOKS, PA	:	
STATE ATTORNEY GENERAL,	:	
and MONROE COUNTY DISTRICT	:	
ATTORNEY,	:	
	:	
Respondents	:	

ORDER

AND NOW, this 9th day of December, 2009, upon consideration of the judgment (Doc. 31) of the Third Circuit Court of Appeals entered in the above-captioned case, and it appearing that petitioner requests that the court apply the stay and abeyance rule announced in Rhines v. Weber, 544 U.S. 269 (2005), and endorsed in Pace v. DiGuglielmo, 544 U.S. 408 (2005), and after a telephone conference with counsel of record in the above-captioned case, in which counsel for respondents indicated that respondents do not oppose the application of the stay and abeyance rule, and the court finding that it may stay a petition where “the petitioner had good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that the petitioner engaged in intentionally dilatory litigation tactics,” Rhines, 544 U.S. at 278, and that use of the stay-and-abeyance procedure is not limited to the context of mixed petitions containing both exhausted and unexhausted habeas claims, see Pace, 544 U.S. at

416, and the court concluding that petitioner has “good cause for his failure to exhaust,” that petitioner’s “unexhausted claims are potentially meritorious,” and that “there is no indication that petitioner engaged in intentionally dilatory litigation tactics,” see Rhines, 544 U.S. at 278, it is hereby ORDERED that all proceedings in the above-captioned case are STAYED and that the court will hold its ruling on the petition for habeas corpus in abeyance, pending petitioner’s exhaustion of state remedies, provided that petitioner commences exhaustion proceedings in state court forthwith and returns to this court within 60 days of completing the exhaustion. The Clerk of Court is directed to mark this matter closed for statistical purposes only.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge