

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

ANTONIO FULLER,	)	
	)	
Petitioner,	)	
v.	)	No. 3:09-0394
	)	JUDGE ECHOLS
STATE OF TENNESSEE, et al.,	)	
	)	
Respondents.	)	

ORDER

Pending before the Court are the *pro se* Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus By A Person In State Custody (Docket Entry No. 1), Respondent’s Motion to Dismiss (Docket Entry No. 9), Petitioner’s response (Docket Entry No. 12), and the Report and Recommendation (“R&R”) entered by the United States Magistrate Judge (Docket Entry No. 15), to which Petitioner filed timely objections (Docket Entry No. 17). The Magistrate Judge recommends dismissing Petitioner’s § 2254 petition without prejudice for failure to exhaust state remedies on the ground that Petitioner’s appeal from the denial of his motion for post-conviction relief is still pending in the Tennessee Court of Criminal Appeals.

When a party makes timely objections to an determination of the matter and may conduct a new witnesses, recommit the matter to the Magistrate Judge conduct conferences with counsel for the affected part oral or written, as the District Judge may desire.” L.I has conducted *de novo* review in this case.

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