

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

ADRIAN SAUNDERS, Petitioner,)	
)	Civil Action No. 7:12-cv-00352
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
PITTSYLVANIA COUNTY CIRCUIT COURT,)	
Respondent.)	By: Norman K. Moon United States District Judge

Petitioner Adrian Saunders, a Virginia inmate proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions in the Pittsylvania County Circuit Court. The court finds that Saunders did not fully exhaust his state court remedies before filing this federal habeas petition and, therefore, the court dismisses his petition without prejudice.

I.

On June 27, 2012, after a trial in the Pittsylvania County Circuit Court, the court convicted Saunders of felony eluding a police officer and driving on a revoked or suspended license and sentenced him to a total of 6 years incarceration with a total of 4 years suspended. Saunders states that he did not appeal. Saunders also indicates, and state court online records confirm, that Saunders did not file a petition for writ of habeas corpus in any Virginia court.

II.

A federal court cannot grant a habeas petition unless the petitioner has exhausted the remedies available in the courts of the state in which he was convicted. Preiser v. Rodriguez, 411 U.S. 475 (1973). If the petitioner has failed to exhaust state court remedies, the federal court must dismiss the petition. Slayton v. Smith, 404 U.S. 53 (1971). In Virginia, a non-death row felon ultimately must present his claims to the Supreme Court of Virginia and receive a ruling

from that court, before a federal district court may consider his claims. See Va. Code § 8.01-654. In this case, it is clear that Saunders has yet to pursue his instant claims in the Supreme Court of Virginia. Accordingly, the court finds that Saunders' petition is unexhausted.

III.

Based on the foregoing, the court dismisses Saunders' instant habeas petition, without prejudice, as unexhausted.

The Clerk is directed to send a certified copy of this Memorandum Opinion and accompanying Order to the petitioner.

ENTER: This 8th day of August, 2012.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE