

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

JAMAL KEMO SAUNDERS,)	
Petitioner,)	Civil Action No. 7:14cv00227
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
DEPT. OF CORRECTIONS,)	By: Norman K. Moon
Respondent.)	United States District Judge

Petitioner Jamal Kemo 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 Danville Circuit Court. I find that Saunders did not fully exhaust his state court remedies before filing this federal habeas petition and, therefore, I will dismiss this action without prejudice.

I.

On January 16, 2014, the Danville Circuit Court convicted Saunders of malicious wounding, in violation of Virginia Code § 18.2-51; possessing a firearm as a convicted felon, in violation of Virginia Code § 18.2-308.2; and using a firearm to commit a felony, in violation of Virginia Code § 18.2-53.1. The court sentenced Saunders to 16 years incarceration, with 5 years suspended. Saunders appealed to the Court of Appeals of Virginia and his appeal is still pending. Saunders has not yet appealed to the Supreme Court of Virginia or filed a petition for writ of habeas corpus in any state 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, I find that Saunders' petition is unexhausted.

III.

Based on the foregoing, I will dismiss Saunders' habeas petition, without prejudice, as unexhausted.

ENTER: This 6th day of May, 2014.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE