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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

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ANTHONY L. SALMON,

      Petitioner,

    v.   **Case No. 07-C-167**

LARRY JENKINS,

      Respondent.

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ORDER ON THE HABEAS CORPUS PETITION

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Anthony L. Salmon ("Salmon"), is a prisoner incarcerated pursuant to a Wisconsin state court judgment. Salmon seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Under Rule 4 Rule of the Rules Governing Section 2254 Cases, this court must make a preliminary examination of the petition. If the court finds that "it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in district court, the judge shall make an order for its summary dismissal." Rule 4, Rules Governing Section 2254 Cases.

Salmon seeks relief on the single ground that he was allegedly denied the effective assistance of counsel on the basis that his trial attorney referenced in her opening statement a letter that Salmon wrote in which he outlined his defense. When the state did not introduce the letter, thereby leaving Salmon's testimony as the only available means by which to introduce the letter, Salmon's attorney nonetheless advised Salmon not to testify on the basis that he would be impeached by his prior criminal convictions. Thus, the letter was never introduced.

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From a review of the petition, the court cannot say that it plainly appears that the petitioner is not entitled to relief. Therefore, the state will be required to answer the petition. In doing so, the respondent should address the issues of timeliness, exhaustion, and procedural default, if applicable.

IT IS THEREFORE ORDERED that a copy of Salmon's petition and this order shall be served upon the respondent by service upon the State of Wisconsin Attorney General.

IT IS FURTHER ORDERED that the respondent shall answer the petition within **30 days** after service of the petition.

Dated at Milwaukee, Wisconsin this 2nd day of March, 2007.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge