

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOVAN WILLIAMS,

Petitioner,

v.

Case No. 17-CV-602-SCD

SCOTT ECKSTEIN,

Respondent.

ORDER

Petitioner Jovan Williams filed this habeas corpus action on April 27, 2017. ECF No. 1. U.S. District Judge Pamela Pepper, Chief Judge for the Eastern District of Wisconsin, screened the petition, concluded that there were potentially three viable, exhausted claims in the petition, and set a briefing schedule for processing the petition. ECF No. 7. After the respondent filed his answer to the petition, Williams filed an unsuccessful motion to appoint counsel. *See* ECF No. 16. Williams then requested and was granted five ninety-day extensions of time to file a brief in support in support of his petition. *See* ECF Nos. 16, 18, 20, 22, 26. The last extension was granted on February 4, 2020; Judge Pepper warned Williams that it would be the last extension granted by the court. ECF No. 26 at 7. Judge Pepper also warned Williams that his case would be dismissed for lack of diligence if by the end of the day on May 4, 2020, he didn't file either a brief in support of his petition or a motion to stay this case while he exhausts state-court remedies.

On May 4, 2020, Williams filed a motion requesting to stay this case until the COVID-19 pandemic is over. *See* ECF No. 29. Williams asserts that his place of incarceration, Waupun Correctional Institution, is on “lockdown,” thereby preventing him from visiting the institution’s law library, reviewing his legal transcripts (which purportedly are saved on a disc), and preparing the materials necessary to proceed with this matter. *Id.* The respondent opposes the request to stay and asks the court to dismiss the petition for failure to diligently prosecute it. *See* ECF No. 31. The matter was reassigned to me on May 12, 2020, after all parties consented to magistrate-judge jurisdiction. *See* ECF No. 34; *see also* ECF Nos. 30, 33 (citing 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73(b)).

The respondent presents a good case for dismissal. This matter has been pending for over three years. Williams still hasn’t filed a brief in support of his petition, nor has he taken any steps to pursue additional post-conviction relief in state court. Also, he didn’t comply with Judge Pepper’s February 4, 2020 order, wherein she warned that lack of compliance would result in dismissal of this action. Nevertheless, I am sensitive to the unexpected and unprecedented situation caused by the COVID-19 pandemic, including its impact on the state’s correctional institutions (and particularly Waupun, where Williams is located). I will therefore give Williams one last chance to continue with this habeas action.

CONCLUSION

For the reasons given above, the petitioner’s motion to stay, ECF No. 29, and the respondent’s motion to dismiss, ECF No. 31, are **DENIED**. By **July 27, 2020**, Williams must file either (1) a brief in support of his petition or (2) a motion to stay while he exhausts state-court remedies. Failure to comply with this order will result in the dismissal of this case pursuant to Fed. R. Civ. P. 41(b) and E.D. Wis. Civ. L. R. 41(c).

SO ORDERED this 29th day of May, 2020.



STEPHEN C. DRIES
United States Magistrate Judge