

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BERNELL EDWARD KELLY,

Petitioner,

v.

Case No. 21-C-717

SHEBOYGAN COUNTY,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING PETITION**

Petitioner Bernell Edward Kelly filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 24, 2021, Magistrate Judge Nancy Joseph screened his petition and filed a Report and Recommendation, in which she recommends that the petition be dismissed. Petitioner filed an objection to the Report and Recommendation on July 12, 2021. For the following reasons, the Court adopts Judge Joseph's Report and Recommendation in full.

Petitioner asserts that he received ineffective assistance of trial counsel, he was convicted on insufficient evidence, he was denied his right of confrontation, and he was not tried to a jury of his peers in Sheboygan County Case No. 2020CF578. He has not yet been sentenced in this case, however, and his sentencing hearing is scheduled for July 16, 2021. As explained in Magistrate Judge Joseph's Report and Recommendation, the petition is premature, as Petitioner has not exhausted the remedies available to him in state court. A district court may not address the merits of a petition for writ of habeas corpus "unless the state courts have had a full and fair opportunity to review them." *Farrell v. Lane*, 939 F.2d 409, 410 (7th Cir. 1991). Accordingly, the Court

adopts the Report and Recommendation of the Magistrate Judge and orders the petition dismissed.

A certificate of appealability is denied for the reasons recommended.

SO ORDERED at Green Bay, Wisconsin this 15th day of July, 2021.

s/ William C. Griesbach

William C. Griesbach

United States District Judge