

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALBERT L. HOWARD,

Petitioner,

v.

ROBERT HUMPHREYS, Warden
Kettle Moraine Correctional Institution,

Respondent.

ORDER

11-cv-793-bbc

The state has filed a motion seeking clarification of my order entered September 10, 2015, in which I modified an earlier order to reflect that petitioner Albert Howard’s petition for a writ of habeas corpus would remain in abeyance until he has exhausted his state court remedies with regard to his claim of ineffective assistance of appellate counsel. Specifically, the state asks this court to establish a firm date by which petitioner needs to file a Knight petition raising his ineffective assistance of appellate counsel claim in the Wisconsin Court of Appeals and to specify how long petitioner has following exhaustion of that claim to notify this court that he has exhausted his state court remedies.

The state’s request is reasonable in order to prevent undue delay in this case. Accordingly, its motion will be granted.

ORDER

IT IS ORDERED that the order entered September 10, 2015 is AMENDED as follows:

The instant petition is STAYED pending exhaustion of petitioner's state remedies on his ineffective assistance of appellate counsel claim on the following conditions: 1) petitioner must file a habeas corpus petition under State v. Knight, 168 Wis. 2d 509, 484 N.W. 2d 540 (1992), in the Wisconsin Court of Appeals not later than October 26, 2015; and 2) after completely exhausting his state court remedies with respect to his ineffective assistance of appellate counsel claim, petitioner has 30 days from the date of the last order from the state courts in which to file a motion in this court to lift the stay. If petitioner fails to meet these conditions, then the stay may be vacated *nunc pro tunc* as of the date of this order and the petition may be dismissed.

Entered this 25th day of September, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge