

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

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RODNEY WASHINGTON,

Petitioner,

v.

GARY BOUGHTON, Warden,  
Wisconsin Secure Program Facility,

Respondent.

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ORDER

14-cv-208-wmc

In its mandate back to this court, the Court of Appeals for the Seventh Circuit directed that a writ of habeas corpus be issued releasing petitioner Rodney Washington from custody “unless the State within 90 days of issuance of this court’s mandate initiates steps to retry Washington.” *Washington v. Boughton*, 884 F.3d 692, 705 (7th Cir. 2018). On August 8, 2018, the court directed respondent to confirm that the State of Wisconsin initiated steps for petitioner’s retrial. In response, the State confirmed that it initiated his retrial in Milwaukee County Case No. 2000CF310 on July 12, 2018, and that a new jury trial is now scheduled for October 22, 2018. (Dkt. #53.)

In the meantime, petitioner filed his own motions, asking this court stay all state court proceedings and release him while he pursues a petition for certiorari to the Supreme Court of the United States. (Dkts. #50, 54, 55.) Washington does not, however, articulate on what basis he would pursue a petition to the Supreme Court beyond a general belief that he should not be retried, which runs directly contrary to the basis for his original petition for writ of habeas corpus: that he should have received the opportunity to defend himself. Regardless, this court’s only remaining jurisdiction on remand by the Seventh

Circuit was to grant the original petition unless the State initiated a retrial. The State now having done that, this court lacks both the authority and jurisdiction to do more. Accordingly, petitioner's motion will be denied and this case will be closed.

ORDER

IT IS ORDERED that:

1. Petitioner Rodney Washington's motions (dks. ##50, 54, 55) are DENIED.
2. The clerk of court is directed to close this case.

Entered this 20th day of August, 2018.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge