

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

CHASE M.A. BORUCH,

Petitioner,

v.

WILLIAM POLLARD, Warden,
Waupun Correctional Institution,

Respondent.

ORDER

15-cv-382-wmc

On June 22, 2015, Chase Boruch filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging a judgment of conviction in Lincoln County Circuit Court, Case No. 2010CF000269. On May 9, 2016, the court granted Boruch's motion to stay this proceeding while he exhausted several grounds for relief in the Wisconsin state courts pursuant to Wis. Stat. § 974.06. (Dkt. #12.) In granting the stay, the court gave Boruch 30 days from the date of the last order from the Wisconsin courts to file a motion in this court to lift the stay. On September 28, 2017, Boruch filed a motion, not seeking to reopen this matter, instead asking this court to rule that his state court remedies are unavailable to him. (Dkt. #21.) The motion will be denied.

OPINION

Boruch explains that on April 27, 2017, the Wisconsin Circuit Court denied his § 974.06 motion, in an oral ruling that has not been reduced to writing. On July 14, 2017, Boruch appealed that decision to the Wisconsin Court of Appeals, *State v. Boruch*, App. No. 2017API441. However, Boruch was unable to pay the transcript fees, and both the circuit court and the Wisconsin Court of Appeals denied his requests for a waiver of the transcript

fees. Therefore, in his view, he has been unable to meaningfully present his case to the Wisconsin Court of Appeals, which is why he asks this court to deem all of the claims in his petition exhausted. However, a review of Boruch's state court proceedings reveals that this request is moot because Boruch is actively pursuing his appeal of the circuit court's denial of his § 974.06 motion in a separate appeal: *State v. Boruch*, App. No. 2018AP152 (Wis. Ct. App.). In fact, the publicly available docket for that appeal shows that briefing is currently in progress. Accordingly, since Boruch is still in the process of exhausting his state court remedies, the motion will be denied as moot and this case will remain stayed.

ORDER

IT IS ORDERED that petitioner Chase Boruch's motion that the Wisconsin Court of Appeals is not a meaningful state remedy (dkt. #21) is DENIED. This case will remain stayed.

Entered this 12th day of September, 2018.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge