

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

CARLOS D. HOPE,

Petitioner,

MEMORANDUM

v.

02-C-0127-C

GARY R. MCCAUGHTRY, Warden,
Waupun Correctional Institution,

Respondent.

On February 26, 2002, petitioner Carlos D. Hope filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. On April 2, 2002, this court granted petitioner's motion to withdraw his petition so that he could attempt to exhaust some of his claims in the state courts before seeking federal relief. The petition was dismissed without prejudice and the case was closed.

Petitioner has now filed a motion for an extension of time within which to file a new petition for a writ of habeas corpus. Petitioner asserts that he has now exhausted all of his claims and he wants to make sure he has enough time to prepare a new petition before the statute of limitations expires. Petitioner states that he does not know how much of the one year limitations period is remaining.

I am taking no action on petitioner's motion. First, petitioner does not have any active case in this court. Case number 02-C-127-C, the number assigned to his initial

petition, is closed and will remain closed even if petitioner files a new petition. Second, there is no basis for me to find that petitioner does not have enough time remaining on his one year federal habeas clock within which to prepare and file a new petition. Third, even if I could make that finding, this court does not have the authority to extend the limitations period that Congress has established.

The best way for petitioner to protect his ability to litigate his claims in federal court is to file a new petition as soon as possible. To help petitioner with that task, I have enclosed a blank § 2254 form with this order. Petitioner will also need to file either the \$5 filing fee for habeas petitions or a motion for leave to proceed in forma pauperis.

Dated this 20th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge