IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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ANTWAN MANUEL,

                  ORDER

        Petitioner,

                  05-C-0701-C

    v.

WILLIAM POLLARD, Warden,
Green Bay Correctional Institution,

        Respondent.

- -

The United States Magistrate Judge filed a report in this case on April 7, 2006, recommending the denial of petitioner Antwan Manuel's petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. Objections to the report were due on April 24, 2006, but after petitioner wrote to the court to say that he was unable to compose and file his objections by that time, I gave him an extension of time until June 2, 2006. He filed his objections on May 30, 2006.

In his petition, petitioner challenged the constitutionality of his conviction in the Circuit Court for Dane County for attempted first degree intentional homicide, aggravated battery and other offenses stemming from the shooting of Prentiss Adams in 2000.

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Petitioner raised two claims: (1) the state trial court violated his rights under the confrontation clause when it allowed into trial the out-of-court statements of Derrick Stamps, who was an eyewitness to the shooting; and (2) his trial lawyer was ineffective because he failed to impeach Stamps's credibility with evidence of prior convictions. Both the state court of appeals and the Wisconsin Supreme Court upheld petitioner's conviction, finding nothing in the then newly-decided case of Crawford v. Washington, 541 U.S. 36 (2004), that required reversal of the conviction under the confrontation clause and finding that petitioner's trial counsel had not been ineffective.

Undeterred by the adverse decisions in the state courts, petitioner has pressed on to federal court, where he faces the difficult task of showing not just that the state supreme court erred but that its decision "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." 28 U.S.C. § 2254(d). In other words, he must show that the state supreme court's decision was *unreasonable,* that is, "well outside the boundaries of permissible differences of opinion." Hardaway v. Young, 302 F.3d 757, 762 (7th Cir. 2002).

Having read the objections and the magistrate judge's report, I am persuaded that petitioner has not shown that the magistrate judge erred in finding that the state supreme court's decision was a reasonable one. The magistrate judge explained in detail how the state supreme court had applied Crawford to petitioner's case and reached a conclusion that was

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"within the range of defensible positions." Mendiola v. Schomig, 224 F.3d 589, 591 (7th Cir. 2000). As for petitioner's claim that he was denied effective counsel, the magistrate judge analyzed the state supreme court's decision that counsel was not constitutionally ineffective when he failed to impeach Stamps with prior convictions. He concluded that the court made a reasonable decision that petitioner could not show that "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Strickland v. Washington, 466 U.S. 668, 687 (1984). As the state court noted, introduction of the impeaching evidence would have had only a marginal impact on Stamps's credibility and would have had no effect on the trial's outcome, given the weight of the evidence against petitioner.

Petitioner has shown no reason why the magistrate judge might have erred in concluding that the state supreme court's conclusion was a reasonable one. Therefore, his petition for a writ of habeas corpus will be denied.

ORDER

IT IS ORDERED that the report of the United States Magistrate Judge is ADOPTED. FURTHER, IT IS ORDERED that petitioner Antwan Manuel's petition for a writ of habeas corpus is DENIED for his failure to show that the state courts acted unreasonably within the

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meaning of 28 U.S.C. § 2254(d) in denying his appeals from his state court conviction.

Entered this 31st day of May, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge