

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

JOHNSON CARTER,

Petitioner,

ORDER

v.

05-C-0691-C

STATE OF WISCONSIN,

Respondent.

Petitioner Johnson Carter, an inmate at the Jackson Correctional Institution, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which he attacks several convictions entered by the Circuit Court for Marathon County. Pursuant to 28 U.S.C. § 2254(b)(1)(A), a state prisoner must first exhaust his state court remedies before seeking habeas relief in federal court. To comply with the exhaustion requirement, a state prisoner must invoke “one complete round” of the state's established appellate review process, including seeking discretionary review of his claims in the state’s highest court. O’Sullivan v. Boerckel, 526 U.S. 838, 845-47 (1999).

The petition and its attachments indicate that petitioner has not exhausted his state court remedies. Although petitioner has appealed his convictions, the state court of appeals has not yet issued a decision on petitioner’s pending appeal. After that occurs, petitioner will have to file a petition for review in the state supreme court. Only after the state

supreme court issues a decision on petitioner's petition for review will petitioner have satisfied the exhaustion requirement. He may refile his federal petition at that time. Accordingly,

ORDER

IT IS ORDERED that the petition of Johnson Carter for a writ of habeas corpus is DISMISSED WITHOUT PREJUDICE for his failure to exhaust his state court remedies.

Entered this 28th day of November, 2005.

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