

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

GEORGE GLEASON,

Petitioner,

v.

LARRY JENKINS, Warden,
Kettle Moraine Correctional Institution,

Respondent.

ORDER

05-C-0123-C

Petitioner George Gleason has filed objections to the report and recommendation entered by the United States Magistrate Judge on October 27, 2005. Unfortunately for petitioner, none of his objections justifies rejecting the magistrate judge's report.

As the magistrate judge explained, obtaining a writ of habeas corpus in a federal court is not easy. The petitioner must show that he raised every federal claim to the state courts in a manner that insured that the state courts had a fair opportunity to consider the claims and that the state courts' denial of those claims represented an unreasonable application of clearly established federal law to the facts or an unreasonable determination of the facts.

Petitioner raised four claims in the petition he filed in this court. Three of them

concerned matters he either failed to raise in the state supreme court in his petition for review or that he raised in such a way as to fail to alert the state supreme court that the claims were constitutional in nature. Therefore, this court cannot consider his claims that (1) the evidence was insufficient to support his conviction; (2) the trial court erred in allowing “other acts” evidence; and (3) the charges against him were multiplicitous. He did raise his claim that the trial court did not instruct the jury properly about what constituted a “true threat.” He is not barred from raising that claim in this court. However, he cannot succeed on it, as the magistrate judge explained thoroughly and persuasively in his report, because the state court of appeals’ denial of the claim was not unreasonable.

I conclude that petitioner has failed to show that the magistrate judge erred in any respect in his report and recommendation.

ORDER

IT IS ORDERED that the report and recommendation of the United States Magistrate Judge is ADOPTED as the court’s own and petitioner George Gleason’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is DENIED for petitioner’s failure

to show that his custody is unlawful.

Entered this 28th day of November, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge