

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

JAMES A. SMITH, JR.,

Petitioner,

v.

ORDER

RICHARD SCHNEITER,

06-C-375-S

Respondent.

Petitioner has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. He has now submitted an affidavit of indigency

From an examination of the affidavit of indigency that he has submitted, the Court finds that petitioner is unable to prepay the costs and fees of commencing this action. Accordingly, his request to proceed in forma pauperis will be granted.

Petitioner is challenging his 1994 conviction. It appears at page 4 of his petition that he continues to pursue his state court remedies.

Federal district courts are required by statute, for reasons of comity, to defer to state courts in proceedings for writs of habeas corpus. Accordingly, petitioner's petition for a writ of habeas corpus will be dismissed without prejudice to petitioner's

refiling his petition after he has exhausted his state court remedies within the meaning of 28 U.S.C. §2254.

Petitioner is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed without prejudice for his failure to exhaust his state remedies. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that petitioner's petition for a writ of habeas corpus is DISMISSED without prejudice.

IT IS FURTHER ORDERED that judgment be entered DISMISSING petitioner's petition for a writ of habeas corpus without prejudice.

Entered this 25th day of July, 2006.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge