

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

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JAMES A. SMITH,

Petitioner,

ORDER

v.

06-C-375-S

RICHARD SCHNEITER,

Respondent.

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On July 26, 2006 petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was dismissed without prejudice for failure to exhaust his state court remedies. His motion for reconsideration was denied on August 29, 2006. On September 5, 2006 petitioner moved reconsideration alleging he had exhausted his state court remedies on August 30, 2006.

Accordingly,

ORDER

IT IS ORDERED that the above entitled matter is REOPENED.

IT IS FURTHER ORDERED that the respondent shall file and serve upon petitioner a response to the petition to include the state court record and any supporting brief not later than 20 days from the date of service this petition, showing cause, if any, why this writ should not issue. Affidavits may accompany the response. Petitioner may have 20 days from the service of the response to file and serve upon counsel for respondent a reply to the

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allegations of the response submitted by the respondent and any supporting brief. Affidavits may accompany the reply. Such affidavits shall raise no issues which have not already been raised in the petition and response. Affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served and filed therewith.

Entered this 6<sup>th</sup> day of September, 2006.

BY THE COURT:

S/

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JOHN C. SHABAZ  
District Judge