

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

GREGORY JAMES MCGRATH,

Petitioner,

ORDER

v.

06-C-662-S

MICHAEL J. GABLEMAN, JAMES H. TAYLOR,
KENNETH L. KUTZ, TRUDY SCHMIDT, DEAN W.
ROLAND, and ATTORNEY GENERAL OF THE
STATE OF WISCONSIN,

Respondent.

Petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. He paid the filing fee.

Petitioner alleges that his Wisconsin state court conviction is unconstitutional. He does not allege that he has exhausted 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 17th day of November, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge