

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

EARL L. DIEHL,

Petitioner,

v.

DENISE SYMDON,

Respondent.

ORDER

11-cv-523-bbc

Petitioner Earl L. Diehl has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 in which he contends that respondent Denise Symdon is keeping him on parole in violation of the Constitution. He has paid the \$5 filing fee.

Before a federal court may consider the merits of a state habeas petitioner's claims, the petitioner must exhaust the remedies available to him in the state courts. 28 U.S.C. § 2254(b)(1)(A); O'Sullivan v. Boerckel, 526 U.S. 838, 845 (1999); Perruquet v. Briley, 390 F.3d 505, 514 (7th Cir. 2004). Petitioner says nothing about any attempts to obtain relief from the state courts before he filed his petition and it seems unlikely that he has exhausted his potential remedies. A review of court records available on the Wisconsin Circuit Court Access Program shows that petitioner sought relief in the circuit court earlier this year, but there is no indication that he appealed that decision. Accordingly, I am directing petitioner

to show cause why his petition should not be dismissed for his failure to exhaust his state court remedies.

ORDER

IT IS ORDERED that petitioner Earl Diehl may have until September 8, 2011, to show cause why his petition should not be dismissed for his failure to exhaust his state court remedies. If petitioner does not respond by that date, I will dismiss the petition without prejudice to petitioner's refiling it after he has finished exhausting his remedies in state court.

Entered this 25th day of August, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge