

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

OUATI K. ALI,

Petitioner,

v.

MICHAEL BAENEN,

Respondent.

ORDER

13-cv-132-bbc

In an order dated September 5, 2013, dkt. #10, I asked petitioner Ouati Ali for the third time to tell the court whether he wished to dismiss his petition for a writ of habeas corpus without prejudice to exhaust his state court remedies or proceed solely on the unexhausted claims. In addition, I wrote, “If he fails to respond or otherwise does not comply with the instructions in this order, I will dismiss the entire petition without prejudice for his failure to exhaust his state court remedies.” Id. at 5.

In his response, petitioner acknowledges what the court asked him to do, but he devotes most of the response to explaining why he believes the National Legal Professional Association committed malpractice when helping him prepare his post conviction motions in state court. He does not say that any failures of the association are relevant to the issue of exhaustion. Instead, he says that he is investigating a possible civil suit against the association.

In the last sentence of his response, petitioner writes, “Therefore, the Petitioner respectfully ask[s] that this court dismiss this petition without prejudice.” Although petitioner does not say that he wants an opportunity to finish exhausting his state court remedies, I will grant his request and dismiss the petition. Petitioner is advised that the statute of limitations for filing a habeas petition in federal court will not be tolled if he is not exhausting his remedies in state court. If he attempts to refile his petition after the statute of limitations has run, I will have to dismiss the petition as untimely.

ORDER

IT IS ORDERED that Ouati Ali’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 is DISMISSED WITHOUT PREJUDICE so that he may exhaust his state court remedies.

Entered this 9th day of October, 2013.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge