

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SHARON BRIDGEWATER,	::	CIVIL ACTION FILE NO.
Petitioner,	::	1:09-CV-02131-ODE-AJB
	::	
v.	::	
	::	
GWINNETT COUNTY,	::	HABEAS CORPUS
STATE OF GEORGIA,	::	28 U.S.C. § 2254
Respondents.	::	

MAGISTRATE JUDGE'S ORDER
AND FINAL REPORT AND RECOMMENDATION

Petitioner, Sharon Bridgewater, a resident of California, challenges via 28 U.S.C. § 2254 the constitutionality of her September 2007 judgment of conviction in Gwinnett County, Georgia. For the purpose of dismissal only, Ms. Bridgewater's motion for leave to proceed *in forma pauperis*, [Doc. 2], is hereby **GRANTED**.

Rule 4 of the Rules Governing Section 2254 Cases allows for summary dismissal of a habeas petition that plainly reveals that relief is not warranted. *See McFarland v. Scott*, 512 U.S. 849, 856 (1994) (stating that Rule 4 dismissal is appropriate when petition "appears legally insufficient on its face"). Ms. Bridgewater states that she pleaded guilty in the Superior Court of Gwinnett County on September 19, 2007, to reckless driving and to driving a vehicle without insurance. [Pet. (Doc. 1) at 1; *see* Pet. Ex. 3 (Doc. 1-5)]. She acknowledges that she

did not file a direct appeal or otherwise challenge her convictions, until she filed a federal habeas action in this Court – *Bridgewater v. State of Georgia*, No. 1:08-CV-2971-ODE (N.D. Ga. Dec. 17, 2008). [See Pet. (Doc. 1) at 1-4]. The Court dismissed that action without prejudice because Ms. Bridgewater had failed to pay the filing fee or submit a financial affidavit seeking leave to proceed *in forma pauperis*. *Bridgewater*, No. 1:08-CV-2971, Docket Entries 2-4. Ms. Bridgewater claims that her guilty plea was coerced by pressure from her court-appointed attorney, who, she claims, provided her with constitutionally defective assistance. [See generally Pet. (Doc. 1-2)].

A district court may not grant a habeas corpus petition unless it appears that either (1) the petitioner “has exhausted the remedies available in the courts of the State”; (2) “there is an absence of available State corrective process”; or (3) “circumstances exist that render such process ineffective to protect the [petitioner’s] rights.” 28 U.S.C. § 2254(b)(1)(A)-(B). Furthermore, a petitioner “shall not be deemed to have exhausted” the available state court remedies “if she has the right under the law of the State to raise, by any available procedure,” the claims she has presented in his federal habeas corpus petition. 28 U.S.C. § 2254(c). Although the Supreme Court has rejected a strict interpretation of § 2254(c), “state prisoners

must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process.”
O'Sullivan v. Boerckel, 526 U.S. 838, 845 (1999).

It is apparent from Ms. Bridgewater's petition that she has not attempted to exhaust any available state remedy through one complete round of Georgia's appellate review process with respect to her allegedly wrongful Gwinnett County convictions. [See Doc. 1 at 2 (indicating that she did not file a motion for new trial, file an appeal, or file a state habeas petition challenging the state conviction at issue in this case.)].

Therefore, **IT IS RECOMMENDED** that her petition for a writ of habeas corpus, [Doc. 1], be **DISMISSED WITHOUT PREJUDICE**.

The Clerk is **DIRECTED** to terminate the referral to the Magistrate Judge.

IT IS SO ORDERED AND RECOMMENDED, this 31st day of August, 2009.



ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE

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**ORDER FOR SERVICE OF REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Attached is the Report and Recommendation of the United States Magistrate Judge made in accordance with 28 U.S.C. § 636(b)(1) and this Court's Local Rules 72.1 and 58.1. Let the same be filed and a copy, with a copy of this order, be served upon counsel for the parties, or if a party is not represented, then directly upon the unrepresented party.

Each party may file written objections, if any, to the Report and Recommendation within ten (10) days of receipt of this Order. 28 U.S.C. § 636(b)(1). Should objections be filed, they shall specify with particularity the alleged error(s) made (including reference by page number to the transcript if applicable) and shall be served upon the opposing party. The party filing objections will be responsible for obtaining and filing the transcript of any evidentiary hearing for review by the District

Court. If no objections are filed, the Report and Recommendation may be adopted as the opinion and order of the District Court and any appellate review of factual findings will be limited to plain error review. *United States v. Slay*, 714 F.2d 1093, 1095 (11th Cir. 1983).

The Clerk is **DIRECTED** to submit the Report and Recommendation with objections, if any, to the District Court after expiration of the above time period.

IT IS SO ORDERED and DIRECTED, this 31st day of August, 2009.



ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE