

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RONALD LEWERS,

Petitioner,

v.

Case No. 8:19-cv-1588-T-02AAS

SECRETARY, DEPARTMENT
OF CORRECTIONS,

Respondent.

_____/

ORDER

Ronald Lewers, a Florida prisoner, initiated this proceeding by filing a “Petition for Stay and Abey U.S.C. 2254 Proceedings” (Doc. 1) in which he moves the court to “stay and abey” the federal statute of limitations period for filing a petition for the writ of habeas corpus while he exhausts his remedies in state court.

Mr. Lewers failed to file any underlying pleading, complaint, or petition. Rule 3, Fed. R. Civ. P., provides that “[a] civil action is commenced by filing a complaint with the court.” Local Rule 1.03(c) (M.D. Fla.) provides, in pertinent part, that “[n]o application for any order of court shall be made until the case or controversy in which the matter arises has been docketed and assigned by the Clerk as prescribed by subsection (b) of this rule. . . .” Moreover, the court cannot liberally construe the motion as a petition for the writ of habeas corpus under 28 U.S.C. § 2254 because it fails to describe any claim Mr. Lewers proposes to assert in a future federal habeas petition. *Cf. United States v. Leon*, 203 F.3d 162, 163 (2d Cir. 2000) (holding that a federal court lacks jurisdiction to consider a motion to extend the time to file a motion to vacate sentence pursuant to


28 U.S.C. § 2255 when no such motion to vacate has actually been filed, “because there is no ‘case’ or ‘controversy’ within the meaning of Article III of the Constitution.”).

Accordingly, it is **ORDERED** that:

1. This case is **DISMISSED** without prejudice to Mr. Lewers filing a petition for the writ of habeas corpus.

2. The **Clerk of Court** shall forward the court-approved form used to initiate a § 2254 case and one Affidavit of Indigency form with Mr. Lewers copy of this Order, and close this case.

DONE and **ORDERED** in Tampa, Florida, on July 2nd, 2019.



WILLIAM F. JUNG
United States District Judge

SA: sfc

Copy to: Ronald Lewers, *pro se*