

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SAMUEL JEROME LEWIS,

Petitioner,

v.

Case No.: 2:24-cv-816-SPC-KCD

SECRETARY, DEPARTMENT OF
CORRECTIONS,

Respondent.

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OPINION AND ORDER

Before the Court is Samuel Jerome Lewis's Petition Under 28 U.S.C. § 2254 by a Person in Custody Pursuant to a State Court Judgment (Doc. 1). Lewis was convicted of multiple drug charges and is serving a prison sentence in the Florida Department of Corrections. This Court reviews Lewis's Petition under Rule 4 of the Rules Governing Section 2254 Cases.

It is plain from the Petition that Lewis is not currently entitled to habeas relief. The Antiterrorism Effective Death Penalty Act precludes federal courts, absent exceptional circumstances, from granting habeas relief unless a petitioner has exhausted all means of relief available under state law. Failure to exhaust occurs "when a petitioner has not 'fairly presented' every issue raised in his federal petition to the state's highest court, either on direct appeal

or on collateral review.” *Pope v. Sec’y for Dep’t. of Corr.*, 680 F.3d 1271, 1284 (11th Cir. 2012) (quoting *Mason v. Allen*, 605 F.3d 1114, 1119 (11th Cir. 2010)).


Lewis states he is “in the process of doing” a state collateral challenge to his conviction under Florida Rule of Criminal Procedure 3.850. (Doc. 1 at 3). He also indicates in the Petition that he has not yet raised his habeas grounds in state court. Because Lewis has not exhausted the means of relief available to him under Florida law, his federal habeas petition is premature. The Court will dismiss it without prejudice. Lewis may file a new petition if his state postconviction challenges are unsuccessful. If Lewis does file another habeas petition, it must state the facts supporting each ground for relief. *See* Section 2254 Rule 2(c). Lewis’s claims that he “feel[s] his lawyer was inadequate” and that he “never consented to a search” are not enough. (Doc. 1 at 15).

Accordingly, it is now

ORDERED:

Samuel Jerome Lewis’s Petition Under 28 U.S.C. § 2254 by a Person in Custody Pursuant to a State Court Judgment (Doc. 1) is **DISMISSED without prejudice**. The Clerk is **DIRECTED** to enter judgment dismissing this action without prejudice, terminate any pending motions and deadlines, and close this case.

DONE and **ORDERED** in Fort Myers, Florida on September 11, 2024.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record).