

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Robert Payette

v.

Civil No. 13-cv-381-JL

Richard M. Gerry, Warden,
New Hampshire State Prison

O R D E R

Before the court is Robert Payette's petition for a writ of habeas corpus (doc. no. 1), filed pursuant to 28 U.S.C. § 2254. The court conducts a preliminary review of habeas petitions to determine whether the petition is legally sufficient on its face. See Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts ("§ 2254 Rules"); 28 U.S.C. § 1915A(a). In undertaking § 2254 Rule 4 preliminary review, this court decides whether the petition contains sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face and cognizable in a federal habeas action. See McFarland v. Scott, 512 U.S. 849, 856 (1994) ("Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face.").

Service

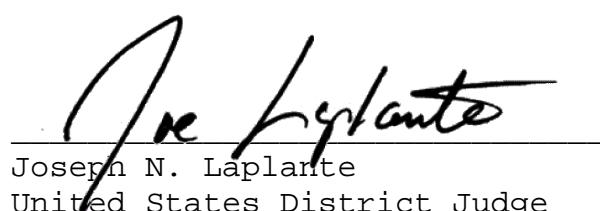
Payette is represented by counsel who asserts in the petition that Payette is incarcerated pursuant to the challenged

conviction and that each claim raised in the petition before this court has been exhausted in the New Hampshire Supreme Court. Payette has adequately demonstrated the facial validity of his petition under § 2254.

Accordingly, the petition shall be served upon respondent Richard Gerry, Warden of the New Hampshire State Prison. Respondent shall file an answer or other pleading in response to the allegations made therein. See § 2254 Rule 4 (requiring reviewing judge to order a response to the petition).

The clerk's office is directed to serve the New Hampshire Office of the Attorney General, as provided in the Agreement on Acceptance of Service, copies of this Order and Payette's habeas petition (doc. no. 1). Respondent is directed to answer or to otherwise plead within thirty days of the date of this Order, and to file the documents required by LR 7.4 sixty days thereafter. The answer shall comply with the requirements of § 2254 Rule 5 (setting forth contents of the answer).

SO ORDERED.



Joseph N. Laplante
United States District Judge

Date: February 10, 2014

cc: Thomas J. Gleason, Esq.