

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

United States,

Plaintiff,

vs.

Case No. 95-10079-JTM

Anthony S. Smith,

Defendants.

MEMORANDUM AND ORDER

Petitioner Anthony Smith, a prisoner held in custody of the State of Kansas, argues that the State has incorrectly calculated the length of his sentence, based in part on an 1995 arrest warrant issued in this federal action. On Smith's motion to waive the court's standard fee (Dkt. 70), the court directed that a certified copy of a 1995 federal arrest warrant be sent to Smith and to the Kansas Bureau of Investigation. (Dkt. 72). Smith has now filed two additional motions. The first asks that a certified copy of the warrant be sent to the Kansas Department of Corrections (Dkt. 73); the second asks for appointment of counsel. (Dkt. 74).

The court hereby grants the motion for additional certification, and directs the Clerk of the Court to send a certified copy of the arrest warrant to the KDOC at the address

specified in defendant's motion.

The court will not appoint counsel for the petitioner. Smith has done nothing to show the need for such appointment, and has failed to set forth *any* federal grounds for challenging in this court his continued detention by the State of Kansas.¹ The present federal action has been closed, and a resulting 151-month federal sentence was imposed on September 19, 1996. (Dkt. 20). A subsequent parole violation was presented to the court in 2011, and an additional 18-month term imposed on August 26, 2011. (Dkt. 68). Smith himself represents that this additional federal "sentence is over" (Dkt. 74, at 1), and the present action has been terminated.

Accordingly, this terminated criminal prosecution is not a proper vehicle for challenging any state incarceration, or for appointment of counsel to challenge that incarceration.

IT IS SO ORDERED this 25th day of February, 2016.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE

¹ The court notes that it has repeatedly denied various motions challenging the federal judgment used in calculating his criminal history. (Dkt. 26, 42, 45).