

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DAMON L. McCRAY,

Petitioner,

v.

CASE NO. 00-3141-SAC

L.E. BRUCE, et al.,

Respondents.

O R D E R

This habeas corpus action was stayed by an order entered on August 30, 2000 (Doc. 12), due to petitioner's pending state court action. Petitioner was directed to file written status reports at sixty day intervals. The court takes judicial notice that petitioner recently was granted a new trial by the state district court.¹

Generally, "[a] case is moot when it is impossible for the court to grant any effectual relief whatever to a prevailing party." Office of Thrift Supervision v. Overland Park Fin. Corp. (In re Overland Park Fin. Corp.), 236 F.3d 1246, 1254 (10th Cir.2001)(internal quotations and citations omitted).

Because petitioner has been granted a new trial, the court

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Damon L. McCray v. State of Kansas, 02-C-198, Memorandum of Decision filed June 30, 2005.

directs him to show cause why this action for habeas corpus, based upon claims arising in his earlier trial, should not be dismissed as moot.

IT IS THEREFORE ORDERED the petitioner is granted thirty (30) days to show cause why this matter should not be dismissed as moot. The failure to file a timely response may result in the dismissal of this matter without prior notice.

Copies of this order shall be transmitted to the parties.

IT IS SO ORDERED.

DATED: This 8th day of July, 2005, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge