

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ALAN KINGSLEY,

Petitioner,

v.

CASE NO. 05-3010-SAC

DAVID R. MCKUNE, et al.,

Respondents.

O R D E R

This matter comes before the court upon petitioner's Objection to Order (Doc. 10), Notice of Interlocutory Appeal (Doc. 11), and Motion for Rule 54(b) Certification (Doc. 12). Having considered these filings, the court finds as follows.

Petitioner's Objection to this court's Order entered on March 30, 2005, (Doc. 6) granting respondents an out-of-time extension of time to answer the court's show cause order is treated as a motion for reconsideration of that order and is denied for the reasons stated in that order.

Petitioner's Notice of Interlocutory Appeal (Doc. 11) is not from a final order or other order specified under 28 U.S.C. 1292. Because the order (Doc. 9) which petitioner seeks to appeal is not a final order, this court does not consider whether or not to issue a certificate of appealability at this

time in this case. Petitioner has paid the appeal fee.

Petitioner's "Motion for Rule 54(b) Certification" (Doc. 12) does not specify the authority for seeking certification under the rule, or what type of certification he seeks. This court finds no basis to enter a final judgment in this case as to fewer than all claims or parties under Rule 54(b) of the Federal Rules of Civil Procedure.

Moreover, it does not appear that petitioner filed his Notice of Interlocutory Appeal within 10 days of entry of the order he seeks to appeal as required by 28 U.S.C. 1292(b).

IT IS THEREFORE BY THE COURT ORDERED that petitioner's Motion for Reconsideration (Doc. 10) of Order (Doc. 6) is denied, and that petitioner's Motion for Rule 54(b) Certification (Doc. 12) is denied.

IT IS SO ORDERED.

Dated this 28th day of April, 2005, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge