

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

DEXTER LORANTHO JEMISON,

Petitioner,

v.

CASE NO. 05-3329-RDR

DUKE TERRALL,

Respondent.

O R D E R

Petitioner proceeds pro se and in forma pauperis on a petition for writ of habeas corpus under 28 U.S.C. 2241. By an order dated August 16, 2005, the court directed petitioner to show cause why the petition should not be dismissed.

Before the court is petitioner's second motion (Doc. 11) for an additional sixty days to file a response. Petitioner cites his recent transfer from the United States Penitentiary at Leavenworth, Kansas, to the United States Penitentiary in Terre Haute, Indiana, and cites continuing delay in the return of personal property he claims is essential to support his claim that he is wrongfully incarcerated under another person's name.

Under the circumstances, the court seriously questions whether further delay in resolving this petition in the District of Kansas is warranted. Instead, the court directs petitioner to show cause why the instant application should not be dismissed without prejudice to petitioner refiling his application in the

district of his present confinement once he can demonstrate full exhaustion of administrative remedies on his claim of mistaken identity. See Williams v. O'Brien, 792 F.2d 986, 987 (10th Cir. 1986)("judicial intervention is usually deferred until administrative remedies have been exhausted"). The failure to file a timely response may result in the dismissal of this action without prejudice, and without further prior notice to petitioner.

IT IS THEREFORE ORDERED that petitioner's motion for an extension of time (Doc. 11) is denied.

IT IS FURTHER ORDERED that petitioner is granted twenty days to show cause why this action should not be dismissed without prejudice.

DATED: This 26th day of October 2005, at Topeka, Kansas.

s/ Richard D. Rogers  
RICHARD D. ROGERS  
United States District Judge