

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ARTHUR J. CAENEN, JR.,

Petitioner,

v.

CASE NO. 06-3040-SAC

KAREN ROHLING, et al.,

Respondents.

O R D E R

This matter is before the court on a petition for writ of habeas corpus under 28 U.S.C. § 2254, filed by a prisoner confined in Larned Correctional Mental Health Facility in Larned, Kansas. Having reviewed petitioner's limited financial resources, the court grants petitioner's motion for leave to proceed in forma pauperis under 28 U.S.C. § 1915.

Petitioner alleges error in his 1988 conviction for first degree murder. Court records disclose that petitioner filed an earlier § 2254 action which this court dismissed as time barred on November 17, 2004. Caenen v. Rohling, Case No. 04-3290-SAC. The Tenth Circuit Court of Appeals denied petitioner's motion for a certificate of appealability, and dismissed petitioner's appeal. Caenen v. Rohling, Appeal No. 04-3486, (10th Cir., March 31, 2005), *cert. denied* July 22, 2005.

In the instant matter, petitioner reasserts his claim of actual innocence and again advances arguments against the dismissal of his habeas application as time barred. The court thus finds this action, which asserts only claims previously considered and rejected

in petitioner's earlier habeas case, should be dismissed. 28 U.S.C. § 2244(b)(1). Petitioner is further advised that if he seeks to raise any new claim in a habeas petition filed under 28 U.S.C. § 2254, he must first seek and obtain authorization from the Tenth Circuit Court of Appeals to proceed in this court on a second or successive petition. 28 U.S.C. § 2244(b)(2) and (3).

IT IS THEREFORE ORDERED that the petition for writ of habeas corpus is dismissed pursuant to 28 U.S.C. § 2244(b)(1).

IT IS SO ORDERED.

DATED: This 23rd day of February 2006 at Topeka, Kansas.

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