

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DELARICK HUNTER,

Petitioner,

v.

CASE NO. 07-3037-SAC

SUPREME COURT OF KANSAS, et al.,

Respondents.

O R D E R

This matter is before the court on a petition for writ of mandamus,¹ 28 U.S.C. § 1651, filed pro se by a prisoner incarcerated in the Lansing Correctional Facility in Lansing, Kansas. Having reviewed petitioner's limited financial resources, the court grants petitioner leave to proceed without prepayment of the \$5.00 district court filing fee.

Petitioner states he filed a petition for mandamus relief in the Kansas Supreme Court in July 2006, seeking that court's intervention in the state district court's dismissal of petitioner's motion under K.S.A. 22-3504 to correct an illegal sentence. The Kansas Supreme Court denied the petition in September 2006. Petitioner now asks this court to "interpret [K.S.A. 22-3504] and overrule the Kansas Supreme Court's consideration and denial."

Under 28 U.S.C. § 1361, a United States District court has original jurisdiction of any action in the nature of mandamus to

¹Petitioner's request to amend the petition (Doc. 3) is granted.

compel "an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff" (emphasis added). Because this court's mandamus power does not extend to state court officials, id., it has no authority to issue a writ to "direct state courts or their judicial officers in the performance of their duties." Van Sickle v. Holloway, 791 F.2d 1431, 1436 n.5 (10th Cir. 1986)(*quotation omitted*).

Accordingly, petitioner's application for a writ of mandamus to issue by this court is denied and the petition is dismissed.

IT IS THEREFORE ORDERED that petitioner's motion for leave to proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED that the petition for a writ of mandamus is denied.

IT IS SO ORDERED.

DATED: This 12th day of June 2007 at Topeka, Kansas.

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