

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CORY D. McQUILLAN,

Plaintiff,

v.

CASE NO. 07-3150-SAC

KEVIN HAYS, et al.,

Defendants.

O R D E R

Petitioner herein seeks to challenge the revocation of his state parole and the length of his parole violator term. On July 24, 2007, this court entered an Order treating this action as a petition for writ of habeas corpus pursuant to 28 U.S.C. 2241, and granting petitioner time to show cause why this action should not be dismissed for failure to exhaust administrative and state court remedies. Petitioner has filed a Response (Doc. 4) and attached copies of letters he wrote to the Kansas Parole Board (KPB) and the Secretary of Corrections complaining of the revocation of his parole. Petitioner does not allege or show that he has filed any action in the courts of the State challenging the actions of the KPB in his case. Thus, he has failed to show that he has exhausted available state court remedies, as he must before seeking relief in federal court. 28 U.S.C. §2254(b)(1)(A).

The court additionally notes that petitioner fails to state a federal constitutional claim. Petitioner challenges the revocation of his parole mainly by asserting he was denied the process due in criminal proceedings. However, it is well-settled that such process is not applicable to parole revocation. For example, the

evidentiary standard in parole proceedings is not proof beyond a reasonable doubt, but is merely that "some evidence" was presented. Testimony of petitioner's ex-wife and her relative indicating petitioner acted contrary to conditions of his parole would qualify as "some evidence." Moreover, the alleged violation of prison regulations involves state law, and does not amount to a federal Constitutional law.

IT IS THEREFORE ORDERED that this action is dismissed, without prejudice, on account of petitioner's failure to exhaust state court remedies.

IT IS SO ORDERED.

Dated this 25th day of September, 2007, at Topeka, Kansas.

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