

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

REGINALD MEEKS,

Petitioner,

v.

CASE NO. 08-3074-SAC

DAVID MCKUNE,  
et al.,

Respondents.

O R D E R

This petition for writ of habeas corpus, 28 U.S.C. § 2254, was filed by an inmate of the Lansing Correctional Facility, Lansing, Kansas. Petitioner paid the filing fee. Having examined the materials filed, the court finds as follows.

In 2002, petitioner was convicted by a jury in Wyandotte County District Court, Kansas City, Kansas, of first degree premeditated murder and sentenced to "life (hard 25)" in prison. He directly appealed, and the Kansas Supreme Court affirmed on April 23, 2004, State v. Meeks, 277 Kan. 609, 88 P.3d 789 (2004).

On February 9, 2005, petitioner filed a pro se motion to vacate, set aside, or correct sentence pursuant to K.S.A. § 60-1507, in the Wyandotte County District Court, which was denied after an evidentiary hearing. He appealed to the Kansas Court of Appeals, which affirmed on February 23, 2007; and the Kansas Supreme Court denied review on September 27, 2007.

The grounds raised by petitioner include (1) denial of confrontation rights by admission of the hearsay statement of the victim at trial, (2) denial of right to present a defense by denying counsel's request for a continuance after an alibi witness changed testimony at trial, (3) denial of due process by admission of highly

prejudicial evidence with no probative value, and (4) denial of due process because evidence was insufficient to convict petitioner of premeditated, rather than heat-of-passion, murder. Mr. Meeks alleges these four issues were presented on direct appeal. His fifth claim, ineffective assistance of counsel, was raised in his post-conviction motion. He alleges all issues have been presented to the Kansas Supreme Court. From the foregoing, the claims appear to be exhausted and timely.

Having examined the materials filed in this case, the court finds:

1. Petitioner is presently a prisoner in the custody of the State of Kansas; and
2. petitioner demands his release from such custody, and as grounds therefore alleges that he is being deprived of his liberty in violation of his rights under the Constitution of the United States, and he claims that he has exhausted all remedies afforded by the courts of the State of Kansas.

The court concludes a response to the Petition is required.

**IT IS THEREFORE ORDERED** that:

1. Respondents herein are hereby required to show cause within twenty (20) days from the date of this order why the writ should not be granted.
2. The response should present:
  - (a) the necessity for an evidentiary hearing on each of the grounds alleged in petitioner's pleadings; and
  - (b) an analysis of each of said grounds and any cases and supporting documents relied upon by respondents in opposition to the same.
3. Respondents shall cause to be forwarded to this court for

examination and review the following:

the records and transcripts, if available, of the criminal proceedings complained of by petitioner, if a direct appeal of the judgment and sentence of the trial court was taken by petitioner, respondents shall furnish the records, or copies thereof, of the appeal proceedings.

Upon termination of the proceedings herein, the clerk of this court will return to the clerk of the proper state court all such state court records and transcripts.

4. The petitioner is granted ten (10) days after receipt by him of a copy of the respondents' answer and return to file a traverse thereto, admitting or denying under oath all factual allegations therein contained.

5. The clerk of this court then return this file to the undersigned judge for such other and further proceedings as may be appropriate; and that the clerk of this court transmit copies of this order to petitioner and to the office of the Attorney General for the State of Kansas.

**IT IS SO ORDERED.**

Dated this 10th day of April, 2008, at Topeka, Kansas.

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