

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RONALD D. ALEXANDER,

Petitioner,

v.

CASE NO. 10-3202-SAC

STATE OF KANSAS, et al.,

Respondents.

O R D E R

Before the court is a pro se pleading seeking federal habeas corpus relief, filed by a person confined in the Sedgwick County Detention Center in Wichita, Kansas. Because it appears petitioner is detained on pending criminal charges, the court construes this action as proceeding under 28 U.S.C. § 2241. See *Walck v. Edmondson*, 472 F.3d 1227 (10th Cir.2007)(§ 2241 is proper avenue for challenging pretrial detention).

Petitioner submitted neither the \$5.00 district court filing fee for this habeas action as required by 28 U.S.C. § 1914, nor a motion seeking leave to proceed in forma pauperis under 28 U.S.C. § 1915 without prepayment of the district court filing fee. The court grants petitioner additional time to satisfy one of these statutory requirements. The failure to file a timely response may result in the petition being dismissed without prejudice based upon petitioner's failure to satisfy the filing fee requirement, and without further prior notice to petitioner.

Petitioner's motion for appointment of counsel is denied without prejudice. There is no constitutional right to the

appointment of counsel in federal habeas corpus proceedings. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). Instead, whether counsel should be appointed is left to the discretion of the court. *Swazo v. Wyoming Dept. of Corrections State Penitentiary Warden*, 23 F.3d 332 (10th Cir.1994). Having reviewed petitioner's claims, his ability to present said claims, and the complexity of the legal issues involved, see *Long v. Shillinger*, 927 F.2d 525, 526-27 (10th Cir.1991)(stating factors to be considered in deciding motion for appointment of counsel), the court no showing at this time warranting appointment of counsel in this matter.

IT IS THEREFORE ORDERED that petitioner is granted twenty (20) days to submit either the \$5.00 district court filing fee, OR a motion for leave to proceed in forma pauperis under 28 U.S.C. § 1915.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (Doc 3) is denied without prejudice.

IT IS SO ORDERED.

DATED: This 15th day of December 2010 at Topeka, Kansas.

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