

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

TYREE R. CONWAY,

Petitioner,

v.

CASE NO. 10-3205-SAC

RAYMOND ROBERTS, et al.,

Respondents.

O R D E R

This matter comes before the court on a petition for a writ of habeas corpus under 28 U.S.C. § 2254, filed pro se by a prisoner incarcerated in a Kansas correctional facility.

Also before the court is petitioner's motion for leave to proceed in forma pauperis under 28 U.S.C. § 1915. Because it appears on the face of petitioner's financial affidavit that he has sufficient funds to pay the \$5.00 district court filing fee, the court denies petitioner's motion. Petitioner is granted additional time to pay the \$5.00 district court filing fee, or if he so chooses, to renew his motion for leave to proceed in forma pauperis with a showing that the funds available to petitioner in his inmate trust fund account are limited enough to warrant petitioner proceeding in forma pauperis in this matter.<sup>1</sup>

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<sup>1</sup>Petitioner is advised that a certified accounting of the funds in petitioner's inmate trust fund account is not required by 28 U.S.C. § 1915(a)(2) because habeas corpus actions are not civil actions within the meaning of § 1915(a)(2). *Boling-Bey v. U.S. Parole Com'n*, 559 F.3d 1149, 1152 n.3 (10th Cir.2009). The court,

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

IT IS FURTHER ORDERED that petitioner is granted thirty (30) days to either pay the \$5.00 district court filing fee, or to renew his motion for in forma pauperis status with a showing regarding the funds available to petitioner in his inmate trust fund account.

**IT IS SO ORDERED.**

DATED: This 24th day of November 2010 at Topeka, Kansas.

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

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however, will consider such information if it is provided. See D.Kan.Rule 9.1(g)(2) which reads:

(A) Where a petitioner, movant, or plaintiff is an inmate of a penal institution and desires to proceed without prepayment of fees, he or she must also submit a certificate executed by an authorized officer of the institution in which he or she is confined. The certificate must state the amount of money or securities on deposit to his or her credit in any account in the institution.

(B) The court may consider the certificate when it rules on the motion for leave to proceed without prepayment of fees.