

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTHONY W. WILLIAMS,

Petitioner,

vs.

CIVIL ACTION
No. 11-3002-SAC

STATE OF KANSAS,

Respondent.

MEMORANDUM AND ORDER

This matter is before the court on a pro se pleading filed by a prisoner at the Winfield Correctional Facility.¹ The pleading is captioned "Motion in bar, and immediate relief and release writ of certiorari" and states it is filed "In the United States Supreme Court for the Tenth Circuit of the State of Kansas."

Because the action appears to challenge aspects of a plea bargain in the state court criminal proceedings against the petitioner and because it appears petitioner has presented his claims in the state appellate courts, this court has liberally

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The pleading was hand-delivered to the Clerk of the Court in the Wichita division of the U.S. District Court for the District of Kansas.

construed the action as a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. However, the court will grant petitioner an opportunity to object to that construction.

Next, if this action proceeds as a petition filed pursuant to § 2254, petitioner must complete and return a form petition. See D. Kan. R. 9.1(a)(requiring the use of official forms in actions, including petitions under § 2254). The clerk of the court will be directed to transmit the appropriate form to petitioner.

Finally, a party seeking habeas corpus review must submit the filing fee of \$5.00, see 28 U.S.C. § 1914(a), or a motion for leave to proceed in forma pauperis. Thus, if this matter proceeds as a petition filed pursuant to § 2254, petitioner must submit the fee or a motion to proceed in forma pauperis to the clerk of the court.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is liberally construed as a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. Petitioner is granted to and including February 7, 2011, to object to this construction.

IT IS FURTHER ORDERED the clerk of the court shall transmit to the petitioner the appropriate form pleading for filing a petition pursuant to § 2254 and a form motion for leave to proceed in forma pauperis. If petitioner intends to pursue this

matter as petition under § 2254, he must complete and return the form and submit either the filing fee of \$5.00 or a motion for leave to proceed in forma pauperis on or before February 7, 2011.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 7th day of January, 2011.

S/ Sam A. Crow
SAM A. CROW
United States Senior District Judge