

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RODNEY TURNER,

Petitioner,

vs.

CIVIL ACTION
No. 11-3016-SAC

KANSAS DEPARTMENT OF CORRECTIONS,
et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus challenging the continued detention of a prisoner in state custody. Petitioner has filed a motion to compel respondents to produce documents (Doc. 8) and a motion to be released upon his own recognizance during the pendency of this action (Doc. 13). Respondents have filed a motion for extension of time to file the Answer and Return in this matter (Doc. 14).

Petitioner seeks the production of records of other inmates whose sentences are similar to his own, namely, those who had indeterminate sentences terminated when they began service of a new sentence for a crime committed during a term of parole or supervised release. He also seeks answers to interrogatories.

A judge presiding in habeas corpus action may, for good

cause, authorize discovery and may limit the extent of that discovery. Rule 6(a), Rules Governing Section 2254 Cases. Having considered the request, the court declines to allow discovery at this time. Respondents have not yet submitted a responsive pleading, and their response may provide petitioner with some of the information he seeks. Petitioner may renew his request following the submission of the Answer and Return.

Petitioner also seeks release pending the resolution of this matter. A federal district judge may release or "enlarge" a state prisoner on bond, pending a decision on a petition for habeas corpus. *Pfaff v. Wells*, 648 F.2d 689, 692 (10th Cir. 1981). Such relief is appropriate, however, only where the petitioner demonstrates exceptional circumstances and a clear case on the merits of the underlying petition. *Id.* at 693; *Johnson v. Nelson*, 877 F.Supp. 569, 570 (D.Kan. 1995). Petitioner has not made any showing of such circumstances or a clear showing on the merits, and the court declines to order his release.

Respondents seek an extension of time to file the Answer and Return and have shown adequate cause for the request sought. The court grants the motion for additional time.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion to compel the production of documents (Doc. 8) is denied without

prejudice.

IT IS FURTHER ORDERED petitioner's motion requesting release on bond (Doc. 13) is denied.

IT IS FURTHER ORDERED respondents' motion for an extension of time to and including July 7, 2011 (Doc. 14), is granted.

Copies of this order shall be transmitted to the parties.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 9th day of June, 2011.

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