

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ZACHARY A. STEWARD,

Petitioner,

vs.

CIVIL ACTION
No. 11-3098-SAC

STATE OF KANSAS, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. By its order of June 23, 2011, the court directed petitioner to show cause why this matter should not be dismissed as untimely. Petitioner did not file a response.

The record in this matter shows petitioner was convicted pursuant to a guilty plea and was sentenced in January 2002¹. He did not file a direct appeal, and there is no evidence of any action by the petitioner to challenge his conviction until late June 2003, when he commenced a state post-conviction action pursuant to K.S.A. 60-1507.

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The court's earlier order incorrectly stated the sentencing occurred in January 2001. The correct date, however, does not lead to a different conclusion.

The court advised petitioner that it was considering the dismissal of this matter due to the expiration of the one-year limitation period under 28 U.S.C. §2244(d)(a)(1) following his conviction and before he commenced his action under K.S.A. 60-1507 and directed him to show cause why this matter should not be dismissed as untimely. Petitioner has made no reply, and there is no information before the court that suggests that dismissal is not warranted for the reasons set forth in the order entered on June 23, 2011.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed due to petitioner's failure to timely commence this action.

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

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 29th day of July, 2011.

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