

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CYNTHIA RADER, on behalf of  
B.R.R., a minor,

Petitioner,

vs.

CIVIL ACTION  
No. 11-3149-SAC

SEDGWICK COUNTY JUVENILE  
RESIDENTIAL FACILITY, 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 entered on September 13, 2011, the court directed the petitioner to show cause why this matter should not be dismissed without prejudice.

Petitioner filed a timely response (Doc. 6), and the court has reviewed that pleading and the attachments. Having done so, the court concludes this matter must be dismissed.

First, the materials before the court do not show the petitioner has exhausted state court remedies. As set forth in the court's earlier order, a petitioner ordinarily may not pursue federal habeas corpus relief until available state court remedies have been exhausted. 28 U.S.C. § 2254(b)(1)(A). The

materials submitted by the petitioner do not show that the claims presented in this matter have been presented to the state appellate courts, including the highest appellate court. See *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999)(state prisoner must pursue "one complete round of the State's established appellate review process" for proper exhaustion of remedies).

Next, the court's research suggests there is a habeas corpus action pending in the Kansas Court of Appeals on behalf of B.R.R.<sup>1</sup> The court finds no basis to proceed in a habeas corpus action during the pendency of a related action in the state courts.

Finally, the court notes that the state district court in February 2011 advised petitioner Cynthia Rader in the juvenile cases that she is not a party in those matters, found that she "has no legal standing or legal authority to file pleadings" in the matters, and directed her to file no additional pleadings therein (Doc. 6, Ex. U). While this court need not address Ms. Rader's standing in the present matter due to its determination that the matter is premature, the court advises Ms. Rader that any future filing by her may be subject to dismissal on that basis.

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<sup>1</sup>

See attached docket sheet, Kansas Court of Appeals, Case No. 105740, *In the Matter of B.R.R.*

IT IS, THEREFORE, BY THE COURT ORDERED the petition for habeas corpus is dismissed as premature.

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

**IT IS SO ORDERED.**

Dated at Topeka, Kansas, this 1st day of November, 2011.

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