

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**KISHEN WOODS,**

**Petitioner,**

**v.**

**CASE NO. 12-3171-SAC**

**UNITED STATES MARSHAL,**

**Respondent.**

**MEMORANDUM AND ORDER**

This matter is a petition for habeas corpus filed pursuant to 28 U.S.C. § 1983. Petitioner is confined in the Sedgwick County Detention Center, Wichita, Kansas, and he commenced this action in the U.S. District Court for the Eastern District of Michigan. The matter was transferred to this court due to petitioner's incarceration in this district and the fact that he had not been convicted of any crime in Michigan.

The court has conducted a preliminary review of the petition but finds no clear statement of any claim for relief raised by the petitioner. The portion of the form pleading that directs an applicant to identify the claims for relief and the supporting facts states only "I murdered my wife in Wichita Kansas Antonia M. Woods." (Doc. 1, p. 4.)

The writ of habeas corpus provides the remedy for prisoners challenging their state convictions on constitutional grounds. See *Estelle v. McGuire*, 502 U.S. 62, 68 (1991) ("In conducting habeas review, a federal court is limited to deciding whether a conviction violated the Constitution, laws, or treaties of the United States.")

Therefore, to proceed in habeas corpus, petitioner must identify a constitutional error in the criminal proceedings that resulted in his conviction or sentence. Petitioner has not alleged such an error.

Next, before a federal court may consider a state prisoner's claim in a habeas corpus proceeding, the prisoner must exhaust his claims for relief by presenting them to the state courts, including the state appellate courts. See *O'Sullivan v. Boerckel*, 526 U.S. 838 (1999). Therefore, petitioner must present any claim for relief on direct appeal in consultation with his appellate counsel before he may properly present that claim in federal habeas corpus.

Because it does not appear that petitioner has pursued relief on appeal in the state courts, the court will dismiss this matter without prejudice and will grant petitioner's motion to proceed in forma pauperis (Doc. 2).

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

IT IS FURTHER ORDERED this matter is dismissed without prejudice to allow petitioner to pursue state court remedies.

**IT IS SO ORDERED.**

DATED: This 16<sup>th</sup> day of October, 2012, at Topeka, Kansas.

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