

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SAUL A. MILLER,

Petitioner,

v.

CASE NO. 12-3245-SAC

DEREK SCHMIDT,
et al.,

Respondents.

O R D E R

This petition for writ of habeas corpus was filed pro se pursuant to 28 U.S.C. § 2254 by an inmate of the Hutchinson Correctional Facility, Hutchinson, Kansas. Petitioner has also filed an Application to Proceed in forma pauperis with the requisite financial information in support indicating that it should be granted.

After a mistrial, Mr. Miller was convicted by a jury of Rape, Aggravated Criminal Sodomy, and 2 Counts Aggravated Indecent Liberties with a Child. His "first trial ended in a mistrial when the State repeatedly violated the trial court's pretrial order limiting admission of the victim's statement." See *State v. Miller*, 264 P.3d 461, 465 (Kan. 2011). Miller directly appealed, and the Kansas Court of Appeals (KCA) affirmed on June 5, 2009, in a published opinion, *State v. Miller*, 208 P.3d 774 (Kan.App. 2009). Mr. Miller appealed to the Kansas Supreme Court, which affirmed in a published opinion filed on October 28, 2011.

Having screened the petition, the court finds it is deficient

in the following ways. First, it is not upon court-approved forms as required by local court rule. Petitioner will be provided with the appropriate forms and is required to submit his petition upon those forms.

Second, Mr. Miller has not alleged any grounds for relief or facts in support in his petition. He has attached what appears to be his appellate brief, which reflects the issues he raised on appeal in state court.¹ However, he must set forth each ground upon which he seeks relief in federal court in his federal petition. He must also state the facts that he believes support each ground. His use of the forms will facilitate his compliance with this order. He is required to answer all questions on the forms to the best of his ability.

Third, Mr. Miller has not provided sufficient information regarding exhaustion of state court remedies. The forms will require him to explain how he exhausted state court remedies on each ground that he raises in federal court.

Petitioner is given time to cure these deficiencies. If he fails to comply with this order within the time allotted, this action may be dismissed without further notice.

IT IS THEREFORE BY THE COURT ORDERED that petitioner's Motion

1 Mr. Miller incorrectly states in his petition that opinions of the state courts are attached. The only attachment received by the court appears to be his appellate brief. Mr. Miller need not send in the opinions of the KCA or the KSC following his retrial, as the court has access to them in the legal publications cited herein.

to Proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED that petitioner is granted thirty (30) days in which to submit his petition upon court-approved forms in which he states grounds, facts in support, and explains how he has exhausted each claim raised in his petition.

The clerk is directed to send petitioner forms for filing a § 2254 petition.

IT IS SO ORDERED.

Dated this 17th day of December, 2012, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge