

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MICHAEL L. GAINES,

Petitioner,

v.

CASE NO. 17-3001-SAC

WARDEN JAMES HEIMGARTNER,

Respondent.

ORDER TO SHOW CAUSE

This matter is a petition for habeas corpus filed pursuant to
28 U.S.C. § 2254.

Motion to proceed in forma pauperis

The court finds petitioner lacks the financial resources to pay
the costs of this action and grants the motion. See D.Kan.R.
9.1(g) (governing in forma pauperis applications in prisoner actions).
Screening

Petitioner's previous application for habeas corpus, Case No.
15-3053, was dismissed without prejudice. In this action, he has
submitted the same pleading with some additions. It appears he has
now exhausted state court remedies. The Court concludes a response
is required and enters the following findings and order:

1. Petitioner is presently in the custody of the State of
Kansas;
2. Petitioner demands his release from such custody, and as
grounds therefore alleges that he is being deprived of
his liberty in violation of his rights under the
Constitution of the United States, and he claims that he

has exhausted all remedies afforded by the State of Kansas.

IT IS, THEREFORE, BY THE COURT ORDERED:

1. That respondent shall show cause within thirty (30) days from the date of this order why the writ should not be granted.
2. That the response should present:
 - (a) The necessity for an evidentiary hearing on each of the grounds alleged in petitioner's pleading; and
 - (b) An analysis of each of said grounds and any cases and supporting documents relied upon by respondent in opposition to the same.
3. Respondent shall cause to be forwarded to this court for examination and review the following:

the records and transcripts, if available, of the state proceedings complained of by petitioner; if a direct appeal of the judgment of the trial court was taken by petitioner, respondent shall furnish the records, or copies thereof, of the appeal proceedings.

Upon the termination of the proceedings herein, the clerk of this court will return to the clerk of the proper state court all such state court records and transcripts.

4. That petitioner is granted thirty (30) days after receipt by him of a copy of respondent's answer and return to file a traverse thereto, admitting or denying, under oath, all factual allegations therein contained.
5. That the clerk of the court shall then return this file to the assigned judge for such other and further proceedings as may be appropriate; and that the clerk of the court shall transmit copies of this order to petitioner and to the office of the Attorney General for the State of Kansas.

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

IT IS SO ORDERED.

This 10th day of January, 2017, in Topeka, Kansas.

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