

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

**BRYAN GRANT-ADAMS,**

**Petitioner,**

**v.**

**CASE NO. 19-3190-SAC**

**CRAWFORD COUNTY SHERIFF,**

**Respondent.**

**MEMORANDUM AND ORDER**

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. Petitioner commenced this matter on September 26, 2019, while held in the Crawford County Jail.

On October 8, 2019, the Court entered a Memorandum and Order directing petitioner to show cause why this matter should not be dismissed without prejudice to allow him to exhaust state court remedies. Petitioner's direct appeal is pending before the Kansas Court of Appeals, and petitioner, in his response, states that he has filed a post-conviction action under K.S.A. 60-1507.<sup>1</sup>

As explained in the Memorandum and Order of October 8, 2019, before seeking federal habeas relief, petitioner must exhaust available state court remedies by presenting the same claims to the state courts, including the state appellate courts. See 28 U.S.C. §2254(b)(1). A federal habeas claims is exhausted if it "has been properly presented to the highest state court, either by direct review

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<sup>1</sup> A review of on-line records maintained by the Kansas courts shows that petitioner filed a post-conviction action under K.S.A. 60-1507 on September 30, 2019, in the District Court of Crawford County, Kansas. That matter is pending under Case No. 2019-CV-000125-P. See [www.kansas.gov/countyCourts/search/records](http://www.kansas.gov/countyCourts/search/records).

of the conviction or in a postconviction attack." *Dever v. Kansas State Penitentiary*, 36 F.3d 1531, 1534 (10<sup>th</sup> Cir. 1994) (citation omitted). Because petitioner has not yet exhausted state court remedies, the Court concludes this matter is premature and that dismissal without prejudice is appropriate.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion to proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED this matter is dismissed without prejudice.

IT IS FURTHER ORDERED no certificate of appealability will issue.

**IT IS SO ORDERED.**

DATED: This 30th day of October, 2019, at Topeka, Kansas.

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