

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CHATHA M. TATUM,

Petitioner,

v.

CASE NO. 19-3228-SAC

TOMMY WILLIAMS,

Respondent.

MEMORANDUM AND ORDER

This matter comes before the court on petitioner's renewed motion for a copy of the state court record. He seeks access to that material out of concern of violating the exhaustion rule. Petitioner also seeks leave to proceed in forma pauperis.

As the court explained in its earlier order, the Tenth Circuit has recognized that an indigent petitioner does not have a constitutional right to a free transcript to search for error. *Ruark v. Gunter*, 958 F.2d 318, 319 (10<sup>th</sup> Cir. 1992) (citation omitted); see also *United States v. MacCollom*, 426 U.S. 317, 325-26 (1976) (plurality) (upholding constitutionality of statute limiting availability of free transcripts in federal habeas corpus actions).

The court has considered the renewed motion for copies of the state court records and will deny the request. Petitioner has not presented a persuasive argument for the access he seeks. The court will consider the arguments of the parties concerning any alleged failure to exhaust and will refer to the state court records to resolve such a dispute.

Likewise, the court finds no reason to grant petitioner's motion to proceed in forma pauperis at this time. Petitioner submitted the

filing fee at the commencement of this action, and that status remains in effect.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's renewed motion for a copy of the state court records (Doc. 57) is denied.

IT IS FURTHER ORDERED petitioner's motion to proceed in forma pauperis (Doc. 58) is denied.

**IT IS SO ORDERED.**

DATED: This 24th day of June, 2022, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge