

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

DARRIS COLTON THOMAS, JR.,

Petitioner,

v.

CASE NO. 19-3263-SAC

DERENDA J. MITCHELL, Assistant Attorney General,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed by a person held at the Saline County Jail, Salina, Kansas. Petitioner filed this action in the U.S. District Court for the Eastern District of California, and the matter was transferred to the District of Kansas. The Court has conducted an initial review of the petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and enters the following order.

Nature of the Petition

Petitioner was convicted, on his plea of guilty, in the District Court of Saline County of indecent solicitation in Case No. 17CR672. He did not file an appeal. He is now held on a detainer as a sexually violent predator. He challenges that detainer and seeks "release to the street[,], off registration [,] and parole." Doc. 1, p. 5.

Discussion

The Court construes the present pleading to challenge petitioner's pending civil commitment as a sexually violent offender. See Doc. 1, p. 5 ("Hey, a sexually violent predator civil commitment detainer should not have been filed on me."). This petition appears to be essentially identical to an earlier petition filed in the

District of Kansas, Case No. 19-3235-SAC, *Thomas v. Thompson*. In that case, the Court entered an Order to Show Cause (OSC) directing petitioner to explain why the matter should not be dismissed without prejudice due to petitioner's apparent failure to exhaust state court remedies. The OSC noted that a state court action concerning petitioner's civil commitment under the Kansas Sexually Violent Predator Act, K.S.A. 59-29a01, et seq. is pending in the Saline County District Court. After review of petitioner's responses, the Court dismissed that matter without prejudice on December 10, 2019. Petitioner's appeal from that ruling is pending.

Because the petitioner appears to present the same claim in this action that he presented in Case No. 19-3235, the Court will direct him to show cause why this matter should not be dismissed as a repetitive filing. See *Childs v. Miller*, 713 F.3d 1262, 1265 (10th Cir. 2013) ("Repetitious litigation of virtually identical causes of action may be dismissed...as frivolous or malicious.")

Order to Show Cause

Petitioner shall show cause on or before **January 24, 2020**, why this matter should not be dismissed as repetitive. The failure to file a timely response may result in the dismissal of this matter without additional notice.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner is granted to and including **January 24, 2020**, to show cause why this matter should not be dismissed as repetitive.

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

IT IS SO ORDERED.

DATED: This 7th day of January, 2020, at Topeka, Kansas.

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