

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SHEA ROBERT PRAVLIK,

Petitioner,

v.

CASE NO. 20-3195-SAC

STATE OF KANSAS,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed by a prisoner at the Johnson County Adult Detention Center (JCADC). The Court has conducted an initial review of the petition under Rule 4 of the Rules Governing Section 2254 Cases. Because petitioner challenges the execution of his sentence, rather than the validity of his conviction or sentence, the Court liberally construes the petition as a filing under 28 U.S.C. § 2241. Petitioner proceeds pro se, and the Court grants leave to proceed in forma pauperis.

The petition

Petitioner was convicted of possession of opiates in the District Court of Johnson County, Kansas, and sentenced to a term of 48 months. On March 30, 2020, he was unsuccessfully discharged from a treatment program due to a violation of the facility rules. He is now held in the JCADC. As relief, he asks to have his probation reinstated, and he argues that it was his first rule violation.

Discussion

A petition under § 2241 is a challenge by a person in custody upon the legality of that custody. *Preiser v. Rodriguez*, 411 U.S. 475,

484 (1973). Under § 2241(c) (3), a petitioner must show that his custody is "in violation of the Constitution or laws or treaties of the United States."

Here, petitioner was removed from a treatment program due to his failure follow its rules. Because petitioner does not contend that his removal was a violation of federal law or allege any error, he does not state a ground for federal relief. See *Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980) (a State's failure to follow its own rules does not present a ground for habeas relief under the failure violates federal law or the Constitution). Accordingly, this matter must be dismissed.

Certificate of Appealability

Under Rule 11 of the Rules Governing Section 2254 Cases, "the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." A certificate of appealability should issue "only if the applicant has made a substantial showing of the denial of a constitutional right," and the Court identifies the specific issue that meets that showing. 28 U.S.C. § 2253.

The Court declines to issue a certificate of appealability. The petitioner has not made a substantial showing of the denial of a federal right, and the decision to dismiss this matter is not reasonably debatable.

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 as stating no claim for federal relief.

IT IS FURTHER ORDERED no certificate of appealability will issue.

IT IS SO ORDERED.

DATED: This 22nd day of July, 2020, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge