

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

RANDY ALLEN MARLER,

Petitioner,

v.

CASE NO. 20-3247-SAC

**DONALD LANGFORD, Warden,
Ellsworth Correctional Facility,**

Respondent.

ORDER

This matter is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. The Court conducted an initial review of the Petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and ordered Petitioner to show good cause why this matter should not be dismissed due to his failure to commence this action within the one-year limitation period. (Doc. 3.) Petitioner has filed a Response (Doc. 4), arguing for statutory and equitable tolling. The Court concludes that a limited Pre-Answer Response (“PAR”) is appropriate. *See Wood v. Milyard*, 566 U.S. 463, 467 (2012); *Denson v. Abbott*, 554 F. Supp. 2d 1206 (D. Colo. 2008). Accordingly, the Court directs Respondent to file such a response limited to addressing the affirmative defense of timeliness under 28 U.S.C. § 2244(d). If Respondent does not intend to raise that defense, Respondent shall notify the Court of that decision in the PAR.

Upon the filing of the PAR, Petitioner may reply and may provide any information that may be relevant to the defense identified in that response.

IT IS THEREFORE ORDERED that Respondent is granted to and including **July 6, 2021**, to file a Pre-Answer Response that complies with this Order.

IT IS FURTHER ORDERED that Petitioner is granted to and including **August 5, 2021**, to file a reply.

The Clerk of the Court shall transmit copies of this Order to the Petitioner and to the Attorney General for the State of Kansas.

IT IS SO ORDERED.

Dated June 2, 2021 in Topeka, Kansas.

s/ Sam A. Crow
Sam A. Crow
U.S. Senior District Judge