

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

**EMILIO ZURITA-CRUZ,**

**Petitioner,**

**v.**

**CASE NO. 21-3035-SAC**

**STATE OF KANSAS,**

**Respondent.**

**MEMORANDUM AND ORDER**

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. Petitioner proceeds pro se, and the court grants leave to proceed in forma pauperis.

The court has conducted an initial review of the petition under Rule 4 of the Rules Governing Section 2254 Cases. After a review of the petition and on-line records maintained by the state district courts, the court concludes that a limited Pre-Answer Response (PAR) from respondent is appropriate in this matter. *See Denson v. Abbott*, 554 F. Supp. 2d 1206 (D. Colo. 2008).

Accordingly, the court directs respondent to file a PAR limited to addressing (1) the affirmative defense of timeliness under 28 U.S.C. § 2244(d) and (2) whether petitioner defaulted his appeal from his post-conviction motion. If respondent does not intend to raise the defense of timeliness, respondent shall notify the court of that decision in the PAR.

Upon the filing of the PAR, petitioner may reply within thirty (30) days and may provide any information that may be relevant to the material identified in the PAR.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motions

to proceed in forma pauperis (Docs. 3 and 5) are granted.

IT IS FURTHER ORDERED that respondent is granted to and including May 10, 2021, to file a pre-answer response that complies with this order.

**IT IS SO ORDERED.**

DATED: This 9th day of April, 2021, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge