

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

CRAIG IVAN GILBERT,

Petitioner,

v.

CASE NO. 21-3234-SAC

SAM CROW,

Respondent.

ORDER OF DISMISSAL

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. 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. Under Rule 4, a court is directed to promptly examine a petition and “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition...” For the reasons that follow, the court concludes summary dismissal of the petition is warranted.

Background

The petition states that petitioner is in custody under three actions decided by the undersigned: (1) Case No. 21-3113-SAC, *State of Kansas v. Gilbert*; (2) Case No. 21-3149-SAC, *Gilbert v. State of Kansas, et al.*; and (3) Case No. 21-3156-SAC, *Gilbert v. Social Security Commission*. The first action is a petition for removal, in which petitioner sought to remove the criminal charges pending in the District Court of Saline County; this court rejected the request and remanded the case to state court¹, where it remains pending. The second

¹ Case No. 2021-CR-000271, Dist. Ct. of Saline Co.

action is a petition filed under 28 U.S.C. § 2241, which was dismissed due to petitioner's failure to submit the petition on court-approved forms or supply financial information. The third action sought to remove a third-party payee for petitioner's Social Security benefits; the action was dismissed after petitioner failed to show he had pursued administrative remedies before commencing the action.

Analysis

A petition for habeas corpus filed under 28 U.S.C. § 2254 is a remedy for "a person in custody pursuant to the judgment of a State court". 28 U.S.C. § 2254(a). Petitioner has not shown that he is subject to such a judgment, as the state charges against him remain pending. His reliance on the three federal civil cases he cites is misplaced.

In addition, the 34-page petition asserts bare claims of kidnapping, human trafficking, and false imprisonment, although it is unclear when, where, or how this occurred. Other allegations, such as the loss of petitioner's business reputation, do not support any apparent claim that would be properly raised in a petition under § 2254.

The court concludes this petition must be dismissed.

IT IS, THEREFORE, BY THE COURT ORDERED the petition for habeas corpus is dismissed. No certificate of appealability will issue.

IT IS SO ORDERED.

DATED: This 29th day of September, 2021, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge