

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JAMES B. WATTS,

Petitioner,

v.

CASE NO. 22-3109-SAC

LUCIFER, et al.,

Respondents.

MEMORANDUM AND ORDER

Petitioner James B. Watts, who is proceeding pro se and in forma pauperis, is a pretrial detainee incarcerated at the Butler County Jail facing state criminal charges. In June 2022, he filed a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, but he did not use the required court-approved forms. (Doc. 1.) The Court issued a notice of deficiency (Doc. 4) informing Petitioner of the requirement that he use the forms. Petitioner filed his petition on the court-approved forms on July 5, 2022. (Doc. 8.)

The Court conducted a preliminary review of the petition and, on July 7, 2022, issued a Notice and Order to Show Cause (NOSC) directing Petitioner to show cause, in writing, why this action should not be dismissed. (Doc. 9.) The NOSC advised Petitioner that “[t]he failure to file a timely response will result in this matter being dismissed without further prior notice to Petitioner.” *Id.* at 12; see also *id.* at 9. Petitioner filed three motions (Docs. 10,

11, and 12) but he did not address the deficiencies identified in the NOSC. Thus, on August 16, 2022, the Court dismissed this matter without prejudice and denied the pending motions as moot. (Doc. 13.)

The matter comes now before the Court on Petitioner's informing the Court that he never received the NOSC, so was unaware that he had been ordered to show cause why the matter should not be dismissed. (Doc. 15.) He asks the Court to reconsider the dismissal and assures the Court that he would have responded to the NOSC had he known about it. *Id.*

The motion to reconsider (Doc. 15) is granted. The Court will direct the clerk of court to reopen this matter. As a result, the Court renews its order, made originally in its NOSC of July 7, 2022, that Petitioner show cause, in writing, why this matter should not be dismissed. The Court will direct the clerk to provide Petitioner with a copy of the NOSC (Doc. 9) and a form petition in case Petitioner wishes to file an amended petition to correct the deficiencies identified in the NOSC.

If Petitioner submits an amended petition, it must be on court-approved forms and must be complete in and of itself. It may not refer back to an earlier version of the petition or attempt to incorporate by reference earlier filings with this Court. Any grounds for relief not included in the amended petition will not be considered by the Court. Petitioner must include the case number of this action (22-3109) on the first page of the amended petition.

Petitioner is allowed to attach additional pages to the petition if necessary, but he must ensure that his asserted grounds

for relief are clearly identified in the petition. The Court will liberally construe pro se filings, but will not search the record or construct arguments for Petitioner. If Petitioner files an amended petition, the Court will conduct an initial review of that amended petition as required by Rule 4 of the Rules Governing § 2254 Cases and issue further orders as necessary. Petitioner's response to the NOSC and/or any amended petition must be filed on or before September 26, 2022. In addition, to the extent that Petitioner wishes to pursue the motions that were denied as moot on the dismissal of this case (Docs. 10, 11, and 12), he may include in his response argument for reconsideration of those motions.

Petitioner has also filed a "Motion for Court Orders to Provide Me the Georgetown Law Journal and[/]or All Court Digests and All Cases I Need Therefrom." (Doc. 16.) In this motion, Petitioner opines on the weight that should be given caselaw and asks the Court to order that certain items be brought to him at Butler County Jail from his residence and from his parents' home. *Id.* at 3. He further asserts that the Court must order that the Butler County Jail charge him a "reasonable cost" for copies of cases instead of the standard \$0.50 per page and that Petitioner "be allowed new law books" and other legal resources. *Id.* at 4. This motion (Doc. 16) will be denied. Petitioner has cited no legal authority that supports the Court issuing the orders he requests.

IT IS THEREFORE ORDERED that the motion to reconsider (Doc. 15) is **granted**. The clerk shall reopen this matter and provide Petitioner with a copy of the July 7, 2022 Notice and Order to Show

Cause. Petitioner is granted to and until September 26, 2022, to file his response to that order and/or his amended petition. The clerk is directed to provide Petitioner with forms on which he may submit an amended petition. The motion for court orders (Doc. 16) is **denied**.

IT IS SO ORDERED.

DATED: This 25th day of August, 2022, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge