

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

MICHAEL C. ROSS,

Petitioner,

v.

CASE NO. 24-3031-JWL

THOMAS L. WILLIAMS,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On March 25, 2024, the Court directed Respondent to file a limited Pre-Answer Response (PAR) addressing the timeliness of this action. (Doc. 8.) Respondent timely filed the PAR on April 18, 2024, arguing that this matter is time-barred and therefore must be dismissed. (Doc. 13.) The Court has reviewed the PAR and will grant Petitioner time in which to file a written response to the arguments therein. If Petitioner fails to timely file a written response, the Court will proceed on the timeliness arguments currently before it and may dismiss this matter as untimely without further prior notice to Petitioner.

The PAR also informs the Court that Petitioner has transferred to Ellsworth Correctional Facility. (Doc. 13, p. 1 n.1.) The proper respondent in a federal habeas action by a state prisoner is the person who has custody over the petitioner. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Thus, Don Langford, the warden of Ellsworth Correctional Facility, where Petitioner is currently confined, is hereby substituted as Respondent pursuant to Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts and Rules 25(d) and 81(a)(4) of the Federal Rules of Civil Procedure. Rule 5.1(b)(3) of the Rules of the United States District

Court for the District of Kansas requires a pro se party to “notify the clerk of any change of address or telephone number.” D. Kan. R. 5.1(b)(3). The Court will direct the Clerk to update Petitioner’s mailing address to reflect his current location, but Petitioner is advised that he is required to comply with Local Rule 5.1(b)(3) and, in the future, he must ensure that the Court has his current address.

IT IS THEREFORE ORDERED that Don Langford, Warden of Ellsworth Correctional Facility, where Petitioner is now confined, is substituted as Respondent in this matter. The Clerk is directed to alter the caption of this matter to reflect the substitution and to update Petitioner’s mailing address to reflect his current location.

IT IS FURTHER ORDERED that Petitioner is granted to and including May 20, 2024 in which to file a written response to the PAR. If Petitioner fails to timely file a written response, this matter may be dismissed without further prior notice to him.

IT IS SO ORDERED.

DATED: This 19th day of April, 2024, at Kansas City, Kansas.

S/ John W. Lungstrum
JOHN W. LUNGSTRUM
United States District Judge