

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JACK D. MCDONALD

PETITIONER

V.

Case No. 4:11CV00676 JMM-JTK

STATE OF ARKANSAS

RESPONDENT

ORDER

Liberal construing the petition as a challenge to his confinement, Petitioner, a committed patient of the Arkansas State Hospital, has filed a writ of habeas corpus petition under 28 U.S.C. § 2254. Petitioner has neither paid the \$5.00 filing fee nor filed an application to proceed *in forma pauperis*.

If Petitioner wishes to proceed further with this action, he must within thirty (30) days of this Order either: (1) pay the \$5.00 filing fee in full;¹ or (2) file a properly completed application to proceed *in forma pauperis*.

In the petition, Petitioner lists one ground for review—“Right To Proceed! My Civil Rights Have Been Violated!” He goes on to state that he has been locked up 18 ½ years for a terroristic threatening charge that he did not commit. Petition, DE #1, at 5. Further, Petitioner gives the date of November 1, 2008, as the date of conviction but in parenthesis provides the notation “not convicted” and later that he “did not go to trial.” *Id.* at 1-2. As it now stands, the petition is too vague and incomplete, and it lacks adequate supporting documentation.²

¹Any payment Petitioner sends to the Court must clearly indicate that it is for payment of the filing fee in “*McDonald v. State of Arkansas*, 4:11CV00676 JMM-JTK.”

²From review, it appears to the Court that in 1987 Petitioner was civilly committed to the Arkansas State Hospital. *In Re Jack Dean McDonald*, Pulaski County Circuit Court, Probate Division, Case No. PR87-1740. Subsequently, he was charged with second degree terroristic threatening, *State v. Jack McDonald*, Pulaski County Circuit Court, Case No. CR90-279, and in 1993 charged with first degree terroristic threatening, *State v. Jack McDonald*, Pulaski County

Before the Court will serve the Petition on Respondent, or otherwise determine whether the petition is frivolous or provides an adequate ground for relief, Plaintiff is advised to file an amended petition within thirty (30) days. Petitioner must provide the Court with a clear statement of facts that evidence a real possibility of constitutional error. *See Aubut v. State of Maine*, 431 F.3d 688, 689 (1st Cir. 1970). Particularly, Petitioner should attach any exhibits to his petition that may aid the Court, including, but not limited to, transcripts, sentencing records, and copies of state court order and opinions.³

Finally, Plaintiff is hereby advised that the failure to timely and properly comply with this Order could result in the dismissal of this habeas action, without prejudice, pursuant to Local Rule 5.5(c)(2).⁴

IT IS THEREFORE ORDERED THAT:

1. The Clerk of Court forward to Petitioner an application to proceed *in forma pauperis*.
2. Within thirty (30) days of the entry-date of this Order, Petitioner must either (1) pay the \$5.00 statutory filing fee in full; or (2) file a properly completed application to proceed *in forma pauperis*.

Circuit Court, Case No. CR93-385. Petitioner was deemed not guilty but again committed to the Arkansas State Hospital. *See In the Matter of Jack D. McDonald*, Pulaski County Circuit Court, Probate Division, Case No. PR94-547.

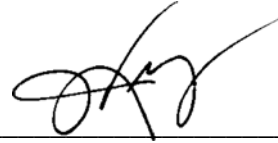
³The Court recognizes that appointment of counsel may be necessary in this instance and will consider such after the preliminary matter of the filing fee is addressed and if a sufficient amended petition is not filed.

⁴Petitioner is hereby notified of his responsibility to comply with the Local Rules of the Court, including Rule 5.5(c)(2), which states:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

3. In accordance with the above instructions, Petitioner shall file an amended petition within thirty (30) days of the entry-date of this Order.

SO ORDERED this 26th day of September, 2011.



UNITED STATES MAGISTRATE JUDGE