

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MARCUS B. WASHINGTON,

Petitioner,

vs.

CIVIL ACTION  
No. 11-3045-SAC

RAYMOND ROBERTS,

Respondent.

MEMORANDUM AND ORDER

This matter comes before the court on petitioner's motion for evidentiary hearing (Doc. 4) and on respondent's motion for an extension of time to file the Answer and Return (Doc. 11).

Petitioner offers no argument in support of his request for a hearing, and it is unclear what evidence he might wish to present. Generally, "[i]n deciding whether to grant an evidentiary hearing, a federal court must consider whether such a hearing could enable an applicant to prove the petition's factual allegations, which, if true, would entitle the applicant to federal habeas relief." *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007). See also *Cullen v. Pinholster*, \_\_\_ U.S. \_\_\_, 131 S.Ct. 1388, 1389 (2011) ("review under § 2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits.").

The court finds no legal basis to grant an evidentiary hearing in this matter and will deny the motion.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for an evidentiary hearing (Doc. 4) is denied.

IT IS FURTHER ORDERED respondent's motion for an extension of time to and including September 5, 2011 (Doc. 11), is granted.

Copies of this order shall be transmitted to the parties.

**IT IS SO ORDERED.**

Dated at Topeka, Kansas, this 4<sup>th</sup> day of August, 2011.

S/ Sam A. Crow  
SAM A. CROW  
United States Senior District Judge