IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

KOMAS A. WILLIAMSON,

Petitioner,

v. **CASE NO. 12-3011-SAC**

STATE OF KANSAS,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. Petitioner proceeds pro se and submitted the filing fee.

Petitioner was convicted in the District Court of Sedgwick County pursuant to a guilty plea. In this action, he seeks the following relief: a reduction in sentence, an order directing that a different state court judge manage his case, sentence credit for time served, and an order directing that the remainder of his sentence be served in the custody of the Kansas Department of Corrections, on work release, or on parole. He also seeks an investigation.

A petitioner seeking federal habeas corpus review generally must satisfy the exhaustion requirement. Under 28 U.S.C. §2254(b)(1), a petitioner must show the claims presented in the habeas corpus action (1) have been presented to the state courts,

including the highest state court, or (2) that no adequate state court remedies are available or effective. *See O'Sullivan v. Boerckel,* 526 U.S. 838 (1999); *Dever v. Kansas State Penitentiary,* 36 F.3d 1531, 1534 (10th Cir.1994).

Because the materials appended to the petition show that a direct appeal is pending in the Kansas appellate courts[1], the court will dismiss this matter without prejudice. Petitioner has not presented his claims to the highest state court; rather, he has a pending appeal in his criminal case, and the state district court has not yet ruled on his challenge to his sentence due to the appeal.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice to allow petitioner to exhaust his claims in the state courts.

IT IS FURTHER ORDERED petitioner's motion for leave to proceed in forma pauperis (Doc. 2) is denied as moot.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

DATED: This 2d day of February, 2012, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge

[1] One attachment shows that the state district court denied petitioner's motion to modify sentence for lack of jurisdiction, citing the pending appeal. The court's research reflects that the appeal remains pending; a copy of the appellate docket sheet is appended to this order.