

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DANIEL JOSEPH PARRISH-PARRADO,

Petitioner,

vs.

CIVIL ACTION
No. 12-3120-RDR

DOUG WADDINGTON, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for writ of mandamus filed by a prisoner at the Larned Correctional Mental Health Facility. (LCMHF). Petitioner seeks mandamus relief against the warden and the LCMHF and asks the court to compel these defendants to assure access to the facility law library. He proceeds pro se.

Because petitioner is subject to the provisions of 28 U.S.C. § 1915(g), the court previously denied leave to proceed in forma pauperis and directed him to submit the full filing fee on or before June 18, 2012. Petitioner has not paid the fee, but he submitted materials to document his request for a withdrawal from his institutional account and a statement that he would ask his family to submit the fee. Because no payment has been received by the clerk of the court, this matter is subject to

dismissal.

In addition, however, this matter is subject to dismissal for lack of jurisdiction. The federal courts have mandamus authority only over federal officials. See 28 U.S.C. § 1361 ("The district courts have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.") It is settled law that this mandamus jurisdiction does not extend to requests for relief against state officials or entities. See *Amisub (PSL), Inc. v. State of Colo. Dep't of Social Servs.*, 879 F.2d 789, 790 (10th Cir.1989)("No relief against state officials or state agencies is afforded by §1361.")

Because the remedy petitioner seeks is clearly outside the mandamus authority of the court, this matter must be dismissed.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed due to failure to state a claim for relief.

IT IS FURTHER ORDERED petitioner's motion to appoint counsel (Doc. 4) and motion for order (Doc. 8) are denied as moot.

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

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 6th day of July, 2012.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States Senior District Judge