

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHRISTOPHER PIERCE,

Petitioner,

v.

CASE NO. 17-3153-SAC

SAM CLINE,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus. Because petitioner appears to challenge actions of the Kansas Prisoner Review Board, the Court has liberally construed this matter as an action filed under 28 U.S.C. § 2241. See *Bradshaw v. Story*, 86 F.3d 164 (10th Cir. 1996) (a petition under § 2241 “attacks the execution of a sentence rather than its validity”).

The petition presents a single ground for relief, which reads “Decision Fraud” (Doc. #1, p. 9). The petition states that this claim is explained by a letter attached as Exhibit A. However, no exhibit is attached to the petition. On September 1, 2017, the Court directed petitioner to submit the exhibit on or before October 2, 2017. Petitioner has failed to provide the exhibit as directed.

Having considered the record, the Court concludes this matter may be dismissed without prejudice¹ due to petitioner’s failure to respond to the order to supplement the record. In reaching this decision, the Court has considered the fact that petitioner has filed over 40 habeas corpus actions in the District of Kansas. He is familiar

¹ Because the dismissal is without prejudice, petitioner may refile this matter.

with the filing procedures, and the Court's order of September 1 clearly identifies the action required in this matter.

The Court therefore will dismiss this matter, without prejudice, under Fed.R.Civ.P. 41(b) due to plaintiff's failure to prosecute this matter by complying with the directions of the Court. Rule 41(b) "has long been interpreted to permits courts to dismiss actions sua sponte for a plaintiff's failure to prosecute or comply with the rules of civil procedure or court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003).

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice under Fed.R.Civ.P. 41(b).

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

IT IS SO ORDERED.

DATED: This 11th day of October, 2017, at Topeka, Kansas.

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