

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHARLEY HUGHES,

Petitioner,

v.

CASE NO. 17-3204-SAC

WARDEN DAN SCHNURR¹,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254 by a prisoner in state custody. Petitioner proceeds pro se, and his fee status is pending.

Screening

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires the Court to promptly review a petition and to dismiss it if it plainly appears the petitioner is not entitled to habeas corpus relief.

Here, petitioner states that he recently discovered an error in his state court sentence; specifically, he alleges that he has been sentenced twice for the same crime. He seeks immediate release and damages.

Petitioner does not assert that he has sought relief in the state courts concerning his claim of sentencing error. An applicant for habeas corpus relief is required to exhaust available state court remedies before seeking federal relief. See *Coleman v. Thompson*, 501

¹ The Court substitutes Warden Dan Schnurr as the respondent to this action. See Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts ("If the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody.").

U.S. 722, 731 (1991) (requiring a state prisoner seeking habeas relief to show that he had exhausted state court remedies).

Because it does not appear that petitioner has presented his claims to the state courts, the Court will direct him to show cause why this matter should not be dismissed to allow him to do so.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner is granted to and including December 22, 2017, to show cause why this matter should not be dismissed without prejudice.

IT IS SO ORDERED.

DATED: This 28th day of November, 2017, at Topeka, Kansas.

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