

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHRISTOPHER PIERCE,

Petitioner,

v.

CASE NO. 18-3012-SAC

SAM CLINE,

Respondent.

MEMORANDUM AND ORDER

This matter is before the Court on a petition for habeas corpus filed by a prisoner in state custody. The petition seeks release from confinement on the ground of attempted murder.

Background

It appears from attachments to the petition, which are documents submitted to the Kansas Supreme Court in an original action filed there,¹ that in September 2017 petitioner was denied medications, including pills for high blood pressure and a rescue inhaler at a pill line at the Lansing Correctional Facility. A response in that action states that petitioner was denied the blood pressure medication in the pill line because of his classification as "treatment bed status", meaning that the pills are brought to his bedside. The inquiry also showed that the inhaler prescription expired in July and was not renewed by the provider; however, in October 2017, in response to the action, the prison health administrator contacted the provider concerning renewal of the prescription and expected the inhaler to arrive shortly. (Doc. #1, Attach., p. 4.) The Kansas Supreme Court

¹ *Pierce v. Cline*, Case No. 118224 (Kan. Sup. Ct. Nov. 16, 2017).

denied relief on November 16, 2017.

Discussion

The present petition appears to seek release from confinement due to petitioner's conditions of confinement. However, this is not a basis for habeas corpus relief. It is settled law that a prisoner who wishes to challenge the conditions of his confinement must proceed in a civil rights action, not a federal habeas corpus petition. *Palma-Salazar v. Davis*, 677 F.3d 1031, 1035 (10th Cir. 2012).

In contrast, a habeas corpus petition brought under 28 U.S.C. § 2241 is used to challenge "the execution of a sentence rather than its validity", *Brace v. United States*, 634 F.3d 1167, 1169 (10th Cir. 2011).

Because the present petition does not state a basis for habeas corpus relief, the Court concludes the petition must be dismissed.

IT IS, THEREFORE, BY THE COURT ORDERED the petition for habeas corpus is dismissed.

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

IT IS SO ORDERED.

DATED: This 17th day of January, 2018, at Topeka, Kansas.

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