

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**CARLON D. MCGINN,**

**Petitioner,**

v.

**CASE NO. 23-3095-JWL**

**TOMMY WILLIAMS,**

**Respondent.**

**MEMORANDUM AND ORDER**

This matter began with a pro se petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by Petitioner and state prisoner Carlon D. McGinn. The petition was dismissed without prejudice on April 6, 2023, and the Court declined to issue a certificate of appealability. (Docs. 4 and 11.) Petitioner appealed the dismissal and, on May 8, 2023, this Court granted Petitioner leave to appeal in forma pauperis. (Doc. 18.) On August 2, 2023, the United States Court of Appeals for the Tenth Circuit denied a certificate of appealability and dismissed Petitioner's appeal. (Doc. 20.)

On April 23, 2024, this Court received from the Tenth Circuit a check in the amount of \$505.00 which mistakenly had been sent to the Tenth Circuit to pay the filing fee for the appeal. (Doc. 21.) This Court receipted the payment.

In a letter dated May 1, 2024, Mr. McGinn informed the Tenth Circuit that the payment of the appellate filing fee had happened in error and he asked that the money be returned. (Doc. 22.) After carefully reviewing the relevant records, this Court concludes that despite the general policy against refunding filing fees, the particular circumstances of this case warrant a refund.

**IT IS THEREFORE ORDERED** that the Court's finance office will refund \$505.00 to  
Petitioner.

**IT IS SO ORDERED.**

DATED: This 9th day of May, 2024, at Kansas City, Kansas.

S/ John W. Lungstrum  
JOHN W. LUNGSTRUM  
United States District Judge