

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TYLER DARNELL JOHNSON,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:10-CV-1365-CDP
)	
CHRIS KOSTER AND OLIVER "GLENN")	
BOYER,)	
Respondents.)	

ORDER

This matter is before the Court on petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court cannot review the merits of the instant petition at this time, because petitioner has submitted neither the \$5 filing fee nor a form “Motion to Proceed In Forma Pauperis and Affidavit in Support -- Habeas Cases.” As such, the Court will give petitioner an opportunity either to pay the \$5 filing fee, see 28 U.S.C. § 1914, or to request leave to proceed in forma pauperis. See 28 U.S.C. § 1915; Local Rule 2.05(A).

Additionally, petitioner did not draft his petition on a court-provided form. As such, the Court will order the Clerk to mail petitioner a copy of the standard form and will order petitioner to file an amended petition using the standard form.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall provide petitioner with a form for filing a “Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a person in State Custody,” as well as a form “Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases.”


IT IS FURTHER ORDERED that petitioner shall complete, sign, and return the amended petition within thirty (30) days from the date of this Order.

IT IS FURTHER ORDERED that petitioner shall have thirty (30) days from the date of this Order either to pay the statutory filing fee of \$5, or to submit a completed form “Motion to Proceed In Forma Pauperis and Affidavit in Support -- Habeas Cases.”

IT IS FURTHER ORDERED that if petitioner fails to submit his petition on a court-provided form and either pay the filing fee or submit the form motion and affidavit within thirty (30) days, the Court will dismiss this action without prejudice. See Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk shall docket this petition as Tyler Darnell Johnson v. Chris Koster and Oliver “Glenn” Boyer.¹

Dated this 1st Day of September, 2010.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

¹Petitioner has named as respondent the State of Missouri. The proper respondent for a prisoner currently in custody pursuant to a state judgment is the state officer having custody of the applicant. See 28 U.S.C. § 2254, Rule 2(a). Petitioner is in the custody of Jefferson County, Missouri, and is challenging the state’s prosecution of his criminal case. Therefore, the proper respondent would not only be the officer having present custody over the petitioner, Sheriff Oliver “Glenn” Boyer (Superintendent of the Jefferson County Jail), but also Chris Koster, Missouri State Attorney General. See 28 U.S.C. § 2254, Rule 2(b).