

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KEVIN D. MCGEE,)	
)	
Petitioner,)	
)	
v.)	No. 4:25-CV-00103 JMB
)	
VALERIE HUHN,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter comes before the Court on review of petitioner Kevin McGee’s application for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. For the reasons discussed below, petitioner will be ordered to file an amended petition on a Court-provided form. He will also be directed to either file a motion for leave to proceed in forma pauperis or pay the \$5 filing fee. Petitioner will have twenty-one (21) days to comply with the Court’s Order.

Discussion

Petitioner is a self-represented litigant who is currently detained at the Southeast Missouri Mental Health Center in Farmington, Missouri. On January 21, 2025, he filed a document titled, “Motion for Restoration of Patient Rights,” indicating that he is seeking to be released from his civil detainment. Petitioner states that he would like to be released from the mental health center in Farmington, Missouri, and allowed to move to San Marcus, Texas, near his brother, who has been designated as his guardian.

Because petitioner is currently civilly detained by the State of Missouri, he must either seek conditional or unconditional release in this Court through habeas corpus pursuant to Mo. Rev. Stat.

§ 552.040.¹ To do so, he must fill out the Court-provided habeas form in its entirety and return it to the Court. *See* E.D. Mo. L.R. 2.06(A) (“All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms”). Petitioner will be given twenty-one (21) days in which to comply. Failure to submit an amended petition on a Court form within **twenty-one (21) days**, as well as either pay the \$5 filing fee or file a motion to proceed in forma pauperis, will result in the dismissal of this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall send petitioner a copy of the Court’s 28 U.S.C. § 2254 form.

IT IS FURTHER ORDERED that petitioner must file an amended 28 U.S.C. § 2254 petition within **twenty-one (21) days** of the date of this Order. The amended petition should *not* include any exhibits or supplements.

IT IS FURTHER ORDERED that within the amended petition, petitioner shall set forth his efforts at exhausting his state-court administrative remedies.

IT IS FURTHER ORDERED that the Clerk of Court shall send to petitioner a copy of the Court’s motion to proceed in forma pauperis form for habeas actions.

IT IS FURTHER ORDERED that petitioner shall either submit a motion for leave to proceed in forma pauperis or pay the \$5 filing fee within **twenty-one (21) days** of the date of this Order.

¹If petitioner is seeking conditional or unconditional release from confinement pursuant to Mo. Rev. Stat. § 552.040, he must demonstrate that he has exhausted his state-court remedies before filing this action. *See Wayne v. Missouri Bd. of Probation & Parole*, 83 F.3d 994, 996 (8th Cir. 1996) (stating that a petitioner in state custody seeking relief pursuant to 28 U.S.C. § 2254 must first exhaust available state remedies before pursuing federal habeas relief). Petitioner should designate on his Court-provided form whether he has exhausted his state-court remedies.

IT IS FURTHER ORDERED that if petitioner fails to comply with this Order, the Court will dismiss this action without prejudice.

Dated this 28th day of January, 2025.

/s/ John M. Bodenhausen
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE