

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

**Willie Jerome Smith-Parker v. Dan Schnurr, Warden of Hutchinson
Correctional Facility**

Smith-Parker v. Schnurr · No. 25-3095-DDC-BGS · Decided March 5, 2026

SUMMARY

The United States District Court for the District of Kansas denied the petitioner’s motions for appointment of counsel, to stay the federal habeas proceedings, and to amend his 28 U.S.C. § 2254 petition. The court concluded that discretionary appointment of counsel was unwarranted, that the petitioner had not shown grounds for a Rhines stay, and that the motion to amend was conclusory and failed to comply with the applicable local rule. The court ordered the case to proceed on the operative third amended petition.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Brooks G. Severson
JURISDICTION	United States District Court for the District of Kansas
DECIDED	March 5, 2026
DOCKET	25-3095-DDC-BGS
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254 and moved for appointment of counsel, a stay, and leave to amend his operative third amended petition. The district court denied all three motions.
STANDARD OF REVIEW	Appointment of counsel is reviewed under the court's discretion unless an evidentiary hearing is required, in which case appointment is mandatory for a qualifying petitioner. A stay of a § 2254 proceeding requires the showing identified in Rhines v. Weber. Leave to amend under Federal Rule of Civil Procedure 15(a)(2) is committed to the court's sound discretion and may be denied for undue delay, bad faith, prejudice, or futility.
PRECEDENTIAL VALUE	unpublished

PARTIES

Willie Jerome Smith-Parker v. Dan Schnurr, Warden of Hutchinson Correctional Facility

TOPICS

federal habeas corpus

post-conviction relief

pleadings

civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

criminal procedure

QUESTIONS PRESENTED

1. Whether appointment of counsel was warranted in the federal § 2254 proceeding.
2. Whether the federal habeas proceeding should be stayed under the stay-and-abeyance procedure for mixed petitions.
3. Whether petitioner should receive leave to amend his § 2254 petition to add unspecified claims.

HOLDINGS

1. A habeas petitioner has no constitutional right to counsel beyond the direct appeal of a criminal conviction. Before an evidentiary hearing is found necessary, appointment of counsel remains discretionary and depends on the merits of the claims, the complexity of the issues, and the petitioner's ability to investigate and present the case. Because no evidentiary hearing or additional factual development had been found necessary and the discretionary factors did not support appointment, the motion for counsel was denied.
2. A stay of a federal habeas proceeding is an extraordinary remedy generally available for a mixed petition only when the petitioner shows good cause for failing to exhaust, that the unexhausted claims are potentially meritorious, and that the stay procedure is appropriate. Petitioner made no such showing, so the motion to stay was denied.
3. Leave to amend under Federal Rule of Civil Procedure 15(a)(2) may be denied when the proposed amendment is not identified with sufficient specificity, fails to comply with applicable local rules, or would improperly delay the case. Because the motion was conclusory, did not identify the proposed claims, failed to attach a proposed amended petition as required by D. Kan. Rule 15.1(a), and sought further amendment after a final opportunity to file a complete petition, leave to amend was denied.

KEY QUOTATIONS

“There is no constitutional right to counsel in a federal habeas corpus proceeding beyond the direct appeal of a criminal conviction.”

“A stay of a federal habeas proceeding is an extraordinary remedy.”

“The motion does not identify the specific claims Petitioner seeks to add, explain how those claims differ from the six grounds already asserted in the operative petition, or describe the factual or legal basis for the

proposed amendments.”

FACTUAL BACKGROUND

Smith-Parker is a Kansas state prisoner challenging convictions arising from a second jury trial on charges including second-degree intentional murder, second-degree reckless murder, aggravated assault, and theft. He received an aggregate sentence of 796 months' imprisonment and later pursued direct and state post-conviction review. In his federal habeas action, he filed a third amended petition asserting six grounds, while later seeking counsel, a stay to pursue additional state remedies, and leave to add unspecified claims.

PROCEDURAL HISTORY

Smith-Parker was convicted after a second Kansas jury trial and received a 796-month sentence. The Kansas Court of Appeals affirmed his convictions and sentence, and the Kansas Supreme Court dismissed review as improvidently granted. After pursuing state post-conviction relief under K.S.A. 60-1507, Smith-Parker filed this federal § 2254 action and ultimately submitted a third amended petition asserting six grounds for relief. The court had completed Rule 4 screening and ordered a response when it ruled on the pending motions.

DISPOSITION

other

CASES CITED

- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Coleman v. Thompson, 501 U.S. 722, 756-57 (1991)
- Swazo v. Wyoming Department of Corrections State Penitentiary Warden, 23 F.3d 332, 333-34 (10th Cir. 1994)
- Lyons v. Kyner, 367 F. App'x 878, 883 n.9 (10th Cir. 2010)
- Hill v. SmithKline Beecham Corp., 393 F.3d 1111, 1115 (10th Cir. 2004)
- Castner v. Colorado Springs Cablevision, 979 F.2d 1417, 1420-22 (10th Cir. 1992)
- Johnson v. Vaughn, 532 F. App'x 811, 811-12 (10th Cir. 2013)
- Cullen v. Pinholster, 563 U.S. 170, 181 (2011)
- McCarthy v. Weinberg, 753 F.2d 836, 838 (10th Cir. 1985)
- Lane v. Brewer, No. 07-3225-JAR, 2008 WL 3271921, at *2 (D. Kan. Aug. 7, 2008)
- Abu-Fakher v. Bode, 175 F. App'x 179, 185 (10th Cir. 2006)
- Rhines v. Weber, 544 U.S. 269, 276-77 (2005)
- Las Vegas Ice & Cold Storage Co. v. Far West Bank, Las Vegas Ice & Cold Storage Co. v. Far West Bank, 893 F.2d 1182, 1185 (10th Cir. 1990)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Hardin v. Manitowoc-Forsythe Corp., 691 F.2d 449, 456 (10th Cir. 1982)

- *Waterman v. Groves*, No. 18-3092-JWB-KGG, 2020 WL 6044103, at *2 (D. Kan. Oct. 13, 2020)
- *Pallottino v. City of Rio Rancho*, 31 F.3d 1023 (10th Cir. 1994)

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