

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

RICKY LEE JONES,

Petitioner,

v.

CASE NO. 05-3042-RDR

WARDEN GALLEGOS,

Respondent.

O R D E R

Petitioner proceeds pro se and in forma pauperis on a petition for writ of habeas corpus filed under 28 U.S.C. 2241. By an order dated July 11, 2005, the court dismissed the petition for lack of jurisdiction. Before the court is petitioner's notice of appeal (Doc. 13) and motion for a certificate of appealability (Doc. 12).

Pursuant to Rule 24 of the Federal Rules of Appellate Procedure, petitioner may proceed in forma pauperis on appeal unless the court certifies the appeal is not taken in good faith, or that petitioner is otherwise not entitled to proceed in forma pauperis. Fed.R.App.P. 24(a). The court enters no such certification in this case.

Petitioner's motion for a certificate of appealability is denied. Although a certificate of appealability is required to file an appeal from the denial of a motion filed under 28 U.S.C. 2255 to vacate, set aside, or correct a federal sentence, see 28 U.S.C. 2253(c)(1)(B) and Fed.R.App.P. 22(b)(1), no certificate of appealability is required to appeal the dismissal or denial of a

habeas corpus petition filed under 28 U.S.C. 2241 by a federal prisoner. Bledsoe v. United States, 384 F.3d 1232, 1235 (10th Cir. 2004). *But see* Montez v. Montana, 208 F.3d 862, 867 (10th Cir. 2000)(state prisoner required to obtain certificate of appealability to appeal the denial of a habeas petition brought pursuant to 28 U.S.C. 2254 or 2241).

IT IS THEREFORE ORDERED that petitioner proceeds in forma pauperis on appeal.

IT IS FURTHER ORDERED that petitioner's motion for a certificate of appealability is denied.

DATED: This 26th day of July 2005, at Topeka, Kansas.

s/ Richard D. Rogers  
RICHARD D. ROGERS  
United States District Judge