

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

UNITED STATES OF AMERICA,)	
Respondent/Plaintiff,)	
)	
v.)	Case No. 11-40030-JAR
)	15-4848-JAR
TAJUAN CARVELL BROOKS,)	
Petitioner/Defendant.)	
_____)	

MEMORANDUM AND ORDER

On June 22, 2015, this Court dismissed as untimely Petitioner TaJuan Carvell Brooks' Motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. 83). Judgment was entered in related Case No. 15-4848 on June 24, 2015. On August 24, 2015, Petitioner appealed this Court's order to the Tenth Circuit Court of Appeals (Doc. 85). This matter is before the Court on Petitioner's Motion for Extension of Time to File Notice of Appeal (Doc. 84) and Motion for Certificate of Appealability (Doc. 86).

Because the United States was a party in the case, Petitioner had sixty days after the order was entered to file an appeal.¹ Petitioner's Notice of Appeal was filed August 24, 2015, sixty days after the entry of Judgment. Accordingly, Petitioner's appeal is timely, and his request for extension of time is moot. Likewise, this Court has already denied Petitioner a certificate of appealability, and that request is also moot.² Because an appeal from an order denying a § 2255 petition may not be taken unless a circuit judge or district judge issues a certificate of appealability, however, Petitioner's application must be made to the Tenth Circuit

¹Fed. R. App. P. 4(a)(1)(B).

²Doc. 83 at 6.

Court of Appeals.³

IT IS THEREFORE ORDERED BY THE COURT that Petitioner's Motion for Extension of Time to File Notice of Appeal (Doc. 84) and Motion for Certificate of Appealability (Doc. 86) are DENIED as moot.

IT IS SO ORDERED.

Dated: August 28, 2015

S/ Julie A. Robinson

JULIE A. ROBINSON

UNITED STATES DISTRICT JUDGE

³28 U.S.C. § 2253(c)(1)(B).