

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CREON D. FAISON,

Petitioner,

v.

CASE NO. 11-3033-RDR

COL. ERIC R. BELCHER, et al.,

Respondents.

O R D E R

Before the court is a petition captioned for filing in the District of Kansas, but titled as a PETITION FOR EXTRAORDINARY RELIEF BY WRIT OF CERTIORARI. Petitioner is a prisoner incarcerated in the United States Disciplinary Barracks in Fort Leavenworth, Kansas. He seeks leave to proceed in forma pauperis under 28 U.S.C. § 1915, and appointment of counsel.

Petitioner states he was convicted by a military judge sitting as a general court-martial on charges of rape, sodomy, and taking indecent liberties of his stepdaughter. See *U.S. v. Faison*, 2010 WL 2265833 (A.F.Ct.Crim.App. April 19, 2010), *rev. denied*, 69 M.J. 209 (U.S. Armed Forces July 28, 2010), *reconsideration denied*, 69 M.J. 275 (U.S. Armed Forces September 22, 2010). In the instant petition he seeks the reversal of all charges, the restoration of all lost effects including back pay, and compensation for his confinement.

Pursuant to 28 U.S.C. § 1259, decisions by the United States Court of Appeals for the Armed Forces may be reviewed by the Supreme

Court by writ of certiorari. Because there is nothing to indicate petitioner can satisfy any of the statutory conditions imposed for such review,<sup>1</sup> the court is prepared to liberally construe the instant pleading as seeking federal habeas corpus review under 28 U.S.C. § 2241 of allegations of error in petitioner's general court martial, and to order a response from respondents. Petitioner is granted a limited opportunity to object to that characterization if he intended instead to seek certiorari review by the United States Supreme Court.

IT IS THEREFORE ORDERED that petitioner's motion to proceed in forma pauperis (Doc. 2) is provisionally granted, subject to this matter proceeding in the District of Kansas under 28 U.S.C. § 2241.

IT IS FURTHER ORDERED that absent an objection by petitioner within twenty (20) days, the court will liberally construe the petition submitted in this matter as seeking federal habeas corpus

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<sup>1</sup>28 U.S.C. § 1259 reads:

Decisions of the United States Court of Appeals for the Armed Forces may be reviewed by the Supreme Court by writ of certiorari in the following cases:

(1) Cases reviewed by the Court of Appeals for the Armed Forces under section 867(a)(1) of title 10.

(2) Cases certified to the Court of Appeals for the Armed Forces by the Judge Advocate General under section 867(a)(2) of title 10.

(3) Cases in which the Court of Appeals for the Armed Forces granted a petition for review under section 867(a)(3) of title 10.

(4) Cases, other than those described in paragraphs (1), (2), and (3) of this subsection, in which the Court of Appeals for the Armed Forces granted relief.

review under 28 U.S.C. § 2241.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (Doc. 3) is denied without prejudice.

DATED: This 4th day of May 2011, at Topeka, Kansas.

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