

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

Brent A. Burke,

Plaintiff,

v.

Case No. 15-3245-JWL

Erica Nelson,

Defendant.

MEMORANDUM & ORDER

Brent A. Burke, a federal prisoner convicted by military court-martial and appearing pro se, filed a petition for writ of habeas corpus under 28 U.S.C. § 2241. In that petition, Mr. Burke raises two claims—that his Fifth Amendment rights were violated because he was not advised of his *Miranda* rights or his Article 31(b) rights prior to questioning by police officers and that he was not subject to court-martial jurisdiction at the time charges were preferred against him. After the government filed its response to the petition, Mr. Burke filed a motion to supplement his petition to include two ineffective-assistance-of-counsel claims. The court then vacated Mr. Burke's traverse deadline and set deadlines for a response and reply concerning Mr. Burke's motion to supplement. Thereafter, the court denied Mr. Burke's motion to supplement his petition and reset Mr. Burke's traverse deadline for July 22, 2016.

On July 7, 2016, the court received a filing from Mr. Burke in which he states that he mailed his traverse on June 14, 2016 and, thus, fails to understand why the court ordered him to file the traverse on or before July 22, 2016. The court has not received the traverse that Mr. Burke asserts was mailed in June. The Clerk of the Court has contacted the government and it

has indicated that it has also not received the traverse. In the interest of justice, then, the court will provide Mr. Burke with an opportunity to file his traverse. To the extent Mr. Burke suggests in his filing that he wishes simply to rely on his petition in lieu of filing his petition, he may do so. The court, however, will not address the petition until Mr. Burke's traverse deadline has passed so that Mr. Burke has the opportunity to file a traverse if he so desires.

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. Burke shall file his traverse to the government's response to his habeas petition on or before **Friday, August 5, 2016.**

IT IS SO ORDERED.

Dated this 8th day of July, 2016, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge