

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

MICHELLE RENEE LAMB
a/k/a THOMAS LAMB,

Plaintiff,

vs.

Case No. 16-3077-EFM-DJW

JOHNNIE GODDARD, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Michelle Lamb's Application for Certificate of Appealability (Doc. 70). This case is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff, an inmate in the custody of Kansas Department of Corrections, alleges that Defendants are violating the Eighth Amendment's prohibition against cruel and unusual punishment by failing to adequately treat her gender dysphoria. She also alleges that her constitutional rights are being violated by the conditions of her confinement. By its Memorandum and Order dated July 6, 2017, the Court granted summary judgment to Defendants on Plaintiff's claims.

A certificate of appealability is to be issued in habeas corpus actions if “the applicant has made a substantial showing of the denial of a constitutional right.”¹ The requirement for a certificate of appealability does not extend to actions brought under § 1983.² The Court construes Plaintiff’s complaint in this case solely as a civil action under § 1983 and not as a petition for writ of habeas corpus.³ Therefore, Plaintiff’s motion is denied. The Court notes that Plaintiff filed a Notice of Appeal (Doc. 69) on August 3, 2017, and a Supplement to the Notice of Appeal (Doc. 74) on August 14, 2017.

IT IS THEREFORE ORDERED that Plaintiff’s Application for Certificate of Appealability (Doc. 70) is **DENIED**.

IT IS SO ORDERED.

Dated this 16th day of August, 2017.



ERIC F. MELGREN
UNITED STATES DISTRICT JUDGE

¹ 28 U.S.C. § 2253(c)(2).

² See 28 U.S.C. § 2253(c)(1) (stating that a certificate of appealability must be granted to appeal a final order granted in a proceeding under § 2255 or in a habeas corpus proceeding in which the detention arises out of process issued by State court).

³ “Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus []; requests for relief turning on circumstances of confinement may be presented in a § 1983 action.” *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (citations omitted). Plaintiff’s request for relief concerns the circumstances of her confinement and not its validity or duration.