

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

RAYMOND WAYNE SULLIVAN,

Petitioner,

v.

CASE NO. 18-3015-JWL

COMMANDER,  
MCCONNELL AIR FORCE BASE,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. §2241. Petitioner, currently a prisoner in Texas, sought relief from his 1984 military conviction. The Court dismissed this matter on June 27, 2018, and petitioner has filed a motion for certificate of appealability (Doc. #19).

A federal prisoner is not required to obtain a certificate of appealability to pursue an appeal of a district court's denial of a habeas claim presented under § 2241. *Eldridge v. Berkebile*, 791 F.3d 1239, 1241 (10<sup>th</sup> Cir. 2015). Although petitioner is now incarcerated by Texas state authorities, the claims presented in this matter concern a military conviction. Because that conviction resulted in federal custody, the Court concludes petitioner is not required to seek a certificate of appealability. *Compare Montez v. McKinna*, 208 F.3d 862, 869 (10<sup>th</sup> Cir. 2000) (requiring a certificate of appealability for claims "related to the incidents and circumstances of any detention pursuant to state court process under § 2241.").

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for a certificate of appealability (Doc. #19) is denied as moot.

**IT IS SO ORDERED.**

DATED: This 2d day of August, 2018, at Kansas City, Kansas.

S/ John W. Lungstrum  
JOHN W. LUNGSTRUM  
U.S. District Judge