

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

WALTER PAYTON,

Plaintiff,

vs.

Case No. 20-3092-SAC

RICHARD BALLINGER, et al.,

Defendants.

O R D E R

This case is before the court upon plaintiff's motion for certificate of appealability. Doc. No. 7. The court shall direct that the Clerk treat the motion as a notice of appeal. See Rodgers v. Wyoming Atty. Gen., 205 F.3d 1201, 1205 (10th Cir. 2000).

As the court has explained in Doc. No. 5, this action appears to be in the nature of a civil rights case under 42 U.S.C. § 1983. But, to the degree it may be considered as a habeas action, the court shall deny the request for a certificate of appealability for the reasons alluded to at Doc. No. 5, p.2 n.1. Also, for the reasons given in Doc. Nos. 3 and 5, the court refuses to certify under 28 U.S.C. § 1915(a)(3) that an appeal from the court's order dismissing this action is taken in good faith.

IT IS SO ORDERED.

Dated this 18th day of May, 2020, at Topeka, Kansas.

s/Sam A. Crow
Sam A. Crow, U.S. District Senior Judge