IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FILED
U.S. District Court
District of Kansas
08/06/2026
Clerk, U.S. District Court
By: SND **Deputy Clerk**

EVERALD S. ALLEN,

Petitioner,

v.

DOUGLAS J. CURTIS, Commandant, United States Disciplinary Barracks,

Respondent.

Case No. 26-3043-JWL

MEMORANDUM AND ORDER

Petitioner, a military prisoner acting *pro se*, filed a petition for habeas corpus under 28 U.S.C. § 2241, in which he challenged his convictions by court martial. In separate orders, the Court denied the petition and denied petitioner's subsequent motion for reconsideration. Petitioner has now filed in this Court a notice of appeal and a motion to proceed on appeal without prepayment of fees (*in forma pauperis*) (Doc. # 14). The Court **denies** the motion.

Fed. R. App. P. 24(a) provides that a party who wishes to appeal *in forma pauperis* must file a motion for such relief in the district court. *See id.* 28 U.S.C. § 1915(a)(3), however, provides that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." *See id.* Good faith in this context is demonstrated when the defendant "seeks appellate review of any issue not frivolous," under an objective standard. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962); *see*

also McIntosh v. U.S. Parole Comm'n, 115 F.3d 809, 812 (10th Cir. 1997) (*in forma pauperis* request on appeal requires demonstration of "the existence of a reasoned, non-frivolous argument on the law and facts in support of the issue raised on appeal") (internal quotation omitted).

In denying the petition in this case, the Court ruled that petitioner had not satisfied each of the *Dodson* factors under the Tenth Circuit's strict standard of review; and it further ruled that petitioner had not established the claimed *Brady* violation at any rate. In the present motion, petitioner, in identifying his appeal issues, names issues that he previously raised in this Court, but he has not addressed all of the specific bases for the Court's denial of relief; the Court thus concludes that petitioner has not shown the existence of a reasoned, non-frivolous argument challenging the Court's ruling. Accordingly, the Court certifies that petitioner's appeal is not taken in good faith, and it therefore denies the motion to proceed on appeal without prepayment of fees.[1]

IT IS THEREFFORE ORDERED BY THE COURT THAT petitioner's motion to proceed on appeal without prepayment of fees (Doc. # 14) is hereby **denied**. The Court certifies by this order that petitioner's appeal from the judgment in this case is not taken in good faith as required by 28 U.S.C. § 1915(a)(3). The Clerk of Court is directed to provide notice of this order to the Tenth Circuit Court of Appeals pursuant to Fed. R. App. P. 24(a)(4).

[1] Federal Rule of Appellate Procedure 24(a)(5) sets forth the applicable procedure if petitioner now wishes to file a similar motion in the Tenth Circuit.

IT IS SO ORDERED.

Dated this 6th day of August, 2026, in Kansas City, Kansas.

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