

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

TRAVIS ANDREW CAVANAUGH,	:	
	:	
Petitioner,	:	Civil Action No.: 15-3537-BRM
	:	
v.	:	MEMORANDUM AND ORDER
	:	
BARRY NADROWSKI,	:	
	:	
Respondent.	:	
	:	

This matter has come before the Court on the Petition for Writ of Habeas Corpus filed by Petitioner Travis Andrew Cavanaugh (“Petitioner”) seeking relief under 28 U.S.C. § 2241 as a pretrial detainee. The Court denied the Petition on the merits in an Opinion and Order issued on December 21, 2016. (ECF Nos. 17 & 18.) Petitioner appealed (Notice of Appeal (ECF No. 20)), and the Third Circuit remanded the case back to this Court to determine whether a certificate of appealability should issue pursuant to 28 U.S.C. § 2253 (Order, Mar. 13, 2017 (ECF No. 22)).

Under 28 U.S.C. § 2253(c), unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken from a final order in a proceeding “in which the detention complained of arises out of process issued by a State court[.]” 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Here, Petitioner alleges that his Sixth Amendment speedy trial rights have been violated because it has been more than three years since his state criminal proceeding commenced, and he has not been brought to trial. (ECF No. 17 at 1-2.) However, as the Court found in the December 21, 2016 Opinion, his speedy trial right was not violated because the delay to trial was entirely caused by his counsel's assertion of mental fitness and insanity defenses. (*Id.* at 5-6.) Indeed, Petitioner is presently confined under a civil commitment order due to his mental instability, and he is still unfit for trial. (*Id.* at 2.) As such, Petitioner has failed to make a substantial showing of the denial of a constitutional right, and no certificate of appealability shall issue.

IT IS on this 17th day of March, 2017,

ORDERED that a certificate of appealability for the Court's December 21, 2016 denial of the Petition (ECF No. 18) is hereby **DENIED**.

/s/ Brian R. Martinotti
HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE