

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES of AMERICA,
Plaintiff,

vs.

ANTHONY S. SMITH,
Defendant.

Crim. Case No. 95-10079-01-JTM

MEMORANDUM AND ORDER

This matter is before the court on the Motion to Correct Clerical Error (Dkt. No. 29) filed by defendant Anthony Smith. The arguments advanced and relief sought in Smith's latest motion are essentially identical to that presented in his Motion to Correct Judgment (Dkt. No. 24) filed one month earlier, and denied by the court on March 14, 2005. (Dkt. No. 26). After that ruling but before the latest reiteration of Smith's motion, he filed a Notice of Appeal. (Dkt. No. 27). Accordingly, the motion was referred to the Court of Appeals (Dkt. No. 33), but that court has subsequently referred the motion here for ruling.

The court finds nothing in Smith's most recent motion which was not previously addressed in the court's ruling of March 15, 2005, and the court denies Smith's latest motion for the reasons identified therein. Rule 36 is not the appropriate vehicle for the correction of (alleged) errors of fact of the type cited by defendant.

IT IS ACCORDINGLY ORDERED this 16th day of May, 2005, that the defendant's Motion to Correct Judgment (Rule 29) is hereby denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE