

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Civil No. 04-3067-KHV
)	
RALPH MERCADO,)	Criminal No. 01-20147-01-KHV
)	
Defendant.)	
_____)	

ORDER

Plaintiff seeks relief under 28 U.S.C. § 2255 based on ineffective counsel. On March 16, 2005, the Court appointed counsel, Brian L. Leininger, to assist defendant in obtaining affidavits from alleged witnesses. See Order (Doc. #102). In the same order, the Court set April 18, 2005, as the deadline for defendant to file such affidavits. See id. This matter comes before on defendant's Motion [Regarding Counsel] (Doc. #107) filed April 7, 2005.

Defendant complains that as of April 3, 2005, Mr. Leininger had not contacted him. Specifically, defendant states as follows:

This Honorable Court has appointed Brian L. Leininger who has not contacted the defendant – who has left the defendant out of the picture of any participation or even knowledge of the course of action he is taking or not taking to obtain these affidavits.

Id. at 2.

Mr. Leininger has not filed anything in the case. The Court therefore orders that on or before **April 27, 2005**, Mr. Leininger file a response to defendant's motion and advise the Court regarding the status of the proposed affidavits and the efforts, if any, which he has taken to secure them.

IT IS THEREFORE ORDERED that on or before **April 27, 2005**, Mr. Leininger shall file a

response to defendant's motion and advise the Court regarding the status of the proposed affidavits and the efforts, if any, which he has taken to secure them.

IT IS FURTHER ORDERED that the Clerk send a copy of this order to defendant by certified mail.

Dated this 20th day of April, 2005 at Kansas City, Kansas.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge