

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

| | | |
|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | CRIMINAL ACTION |
| |) | |
| v. |) | Nos. 04-10255-01 |
| |) | 05-10052-01 |
| |) | |
| LARRY RAIFSNIDER, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

MEMORANDUM AND ORDER

This case comes before the court on defendant's notice to examine the records and dismiss the action pursuant to Fed. R. Civ. P. 12(h)(3). (Doc. 97). The motion has been fully briefed. (Doc. 99).¹

The procedural history of this case is set out in the government's response and this court's prior orders.² (Docs. 59, 85, 99). Defendant's motion seeks to challenge this court's jurisdiction and authority to impose a sentence. Defendant's motion may, or may not, be a second and subsequent motion pursuant to 28 U.S.C. § 2255. If it is, he has not applied for or received a certificate of appealability from the Tenth Circuit and accordingly, this court has no jurisdiction to consider the motion. In the unlikely event that this court does have jurisdiction, the motion would be denied as facially and legally frivolous.

¹ Defendant has not filed a reply and the time for doing so has now passed.

² Defendant was charged and entered guilty pleas in two cases, 04-10255 and 05-10052. This motion only refers to the 04-10255 case.

The clerk is directed not to file any further pro se motions or other submissions from defendant unless authorized by a judge of this court.

IT IS SO ORDERED.

Dated this 24th day of September 2014, at Wichita, Kansas.

s/Monti Belot

Monti L. Belot

UNITED STATES DISTRICT JUDGE