

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL ACTION
)	
v.)	No. 04-20044-01-KHV
)	
ANDRE IVORY,)	
)	
Defendant.)	
_____)	

ORDER

This matter is before the Court on defendant’s Motion To Defer [Restitution] Payments (Doc. #578) filed April 15, 2019 and the Motion Of The United States For Order Authorizing Clerk Of The Court To Refund Payments Applied To The Expired Special Assessment (Doc. #579) filed April 19, 2019. For reasons stated below, the Court overrules defendant’s motion as moot and sustains the government’s motion.

I. Motion To Defer Restitution Payments

Defendant asks the Court to defer restitution payments while he is incarcerated based on his inability to pay. See Doc. #578 at 1. On May 2, 2006, the Court ordered that defendant pay \$13,379.74 in restitution and that this obligation was joint and several with codefendants Pamela Tyler, Chaconie Edwards, Kimberly Sanders and Kyle Crayton. See Judgment In A Criminal Case (Doc. #450) at 3-4. The government states that based on a Treasury Offset Program payment offset against Sanders, defendant’s restitution obligation was satisfied in full. See Doc. #579 at 1-2. Accordingly, the Court overrules as moot defendant’s request to defer restitution payments.

II. Government Motion To Refund Payments On Expired Special Assessment

On May 2, 2006, the Court imposed a special assessment of \$900.00. See Judgment In A

Criminal Case (Doc. #450) at 3. Between November 1, 2006 and January 25, 2011, defendant paid \$386.00 toward the special assessment. On May 2, 2011, defendant's obligation to pay the remaining portion of the special assessment expired. See 18 U.S.C. § 3013(c) (obligation to pay assessment ceases five years after date of judgment). From January 1, 2012 through October 1, 2018, through the Bureau of Prisons, defendant paid an additional \$250.00 toward the special assessment. As the government notes, defendant is entitled to a refund of the amount that he paid after May 2, 2011.

IT IS THEREFORE ORDERED that defendant's Motion To Defer [Restitution] Payments (Doc. #578) filed April 15, 2019 is **OVERRULED as moot**.

IT IS FURTHER ORDERED that the Motion Of The United States For Order Authorizing Clerk Of The Court To Refund Payments Applied To The Expired Special Assessment (Doc. #579) filed April 19, 2019 is **SUSTAINED**.

IT IS FURTHER ORDERED that the Clerk shall refund the sum of \$250.00, which was applied to the expired Special Assessment, to Andre Ivory, USP Florence, P.O. Box 7000, Florence, CO 81226, for proper distribution. No further amount is due on the Special Assessment imposed on May 2, 2006 in this matter.

Dated this 7th day of August, 2019 at Kansas City, Kansas.

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