

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CRIMINAL ACTION</b>
<b>v.</b>	)	
	)	<b>No. 04-20089-01-KHV</b>
<b>MONTGOMERY CARL AKERS,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**ORDER**

On January 16, 2008, the Tenth Circuit Court of Appeals affirmed defendant's sentence of 327 months in prison. See United States v. Akers, 261 Fed. Appx. 110 (10th Cir. Jan. 16, 2008). Defendant has filed numerous motions which challenge collateral matters related to his criminal case, and at least four of those matters are before the Tenth Circuit Court of Appeals. See 10th Circuit Appeal No. 08-3350, appeal of Order (Doc. #292) filed December 2, 2008; 10th Circuit Appeal No. 08-3343, appeal of Order (Doc. #291) filed December 2, 2008; 10th Circuit Appeal No. 08-3323, appeal of Order (Doc. #282) and Memorandum And Order (Doc. #283) both filed November 13, 2008; 10th Circuit Appeal No. 07-3215, appeal of Order (Doc. #233) filed July 19, 2007. The matter is before this Court on Defendant's Motion To Correct The Record Regarding The Issue On Appeal In Case No. 08-3323 United States Court Of Appeals For The Tenth Circuit (Doc. #302) filed December 30, 2008.

Defendant asks the Court to correct the record to reflect that he does not seek to withdraw his guilty plea. Subject to exceptions which do not apply in this case, the filing of a notice of appeal divests a district court of jurisdiction. See United States v. Brown, 290 Fed. Appx. 157, 159 (10th Cir. 2008); United States v. Prows, 448 F.3d 1223, 1228 (10th Cir. 2006); United States v. Meyers,

95 F.3d 1475, 1489 n.6 (10th Cir. 1996). Because defendant has already filed a notice of appeal, the Court denies defendant's motion for lack of jurisdiction. Subject to the Rules of the Tenth Circuit Court of Appeals, defendant may seek leave from that court to correct the record on appeal.

**IT IS THEREFORE ORDERED** that Defendant's Motion To Correct The Record Regarding The Issue On Appeal In Case No. 08-3323 United States Court Of Appeals For The Tenth Circuit (Doc. #302) filed December 30, 2008 be and hereby is **DENIED**.

Dated this 17th day of February, 2009 at Kansas City, Kansas.

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