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

UNITED STATES OF AMERICA	)	
Plaintiff,	)	
v.	) ) ) Case Nos.	05-20018-01-CM (Criminal)
CARLOS JACKSON,	)	14-2142-CM (Civil)
Defendant.	) ) )	

## MEMORANDUM AND ORDER

Presently before the court is a motion for summary judgment filed pro se by defendant Carlos Jackson (Doc. 143). Also before the court is the government's second motion for extension of time to file a response (Doc. 144) to defendant's 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence by a person in federal custody (Doc. 138). For the reasons below, the court denies defendant's motion and grants the government's motion.

Defendant filed a § 2255 motion on March 27, 2014. The response deadline of April 28, 2014, passed without a response from the government. On April 30, 2014, the government filed a motion for leave to file a motion out of time and a motion for extension of time to file its response (Doc. 141). On May 5, 2014, the court granted the government's motion and gave the government until May 28, 2014, to file a response. (Doc. 142.) Defendant filed the instant motion on May 6, 2014. Defendant attached to this motion a copy of his previously-filed § 2255 motion and his memorandum in support of his § 2255 motion. (Doc. 143-1.) On May 27, 2014, the government filed a second motion for extension of time, asking the court to give it until June 26, 2014, to file its response.

Defendant contends that he is entitled to summary judgment under Federal Rule of Civil Procedure 56 because the government failed to file a timely response to his § 2255 motion. But the court granted the government's request to file a motion out of time and for an extension of time before defendant filed his motion for summary judgment. Federal Rule of Civil Procedure 56 does not offer defendant any basis for relief in this instance. Defendant's motion for summary judgment (Doc. 143) is denied.

In addition, the court grants the government's second request for an extension of time. The government's response is due on June 26, 2014, and defendant's reply is due July 26, 2014. The government's motion (Doc. 144) is granted.

**IT IS THEREFORE ORDERED** that defendant's Motion for Summary Judgment (Doc. 143) is denied.

**IT IS FURTHER ORDERED** that the government's second Motion for Extension of Time to File Response (Doc. 144) is granted. The government's response is due on June 26, 2014, and defendant's reply is due July 26, 2014. The government's motion (Doc. 144) is granted.

Dated this 28<sup>th</sup> day of May, 2014, at Kansas City, Kansas.

s/ Carlos Murguia CARLOS MURGUIA United States District Judge