

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

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**EDUARDO SOTO-DIARTE,**

**Defendant.**

**Case No. 06-20142**

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**MEMORANDUM AND ORDER**

After Defendant Eduardo Soto-Diarte's case was remanded to this court from the Tenth Circuit (doc. 151), this court ordered Mr. Soto-Diarte to file a notice of status regarding the firearms in question by May 14, 2010. On June 14, 2010, having received nothing from Mr. Soto-Diarte, the court issued a Memorandum and Order denying Mr. Soto-Diarte's pending motion for relief (doc. 156).

Later that day, the court received Mr. Soto-Diarte's motion for leave to file a late response (doc. 157). The court granted that motion (doc. 158) and allowed the tendered pleading to be filed (doc. 159). Additionally, the court ordered the Government to respond by July 19, 2010.

Mr. Soto-Diarte has also filed a motion for reconsideration (doc. 163), explaining his delay in filing and asking the court to reconsider its order. That motion is granted to the extent that the court will accept Mr. Soto-Diarte's filing,

even though it was late, given the circumstances he represented in his motion to reconsider. And the court will vacate its order (doc. 156) denying the motion for return of property so that it can again take under advisement the substance of that motion.

The court notes that Mr. Soto-Diarte has submitted several documents suggesting that the firearms at issue have been destroyed. The Government, in its response which is due July 19, should provide evidence supporting its earlier representations to the contrary.

**IT IS THEREFORE ORDERED BY THE COURT** that defendant's motion for reconsideration (doc. 163) is granted to the extent that the court will again consider the substance of the motion for return of property.

**IT IS FURTHER ORDERED** that the court's memorandum and order (doc. 156) is vacated.

**IT IS SO ORDERED** this 2nd day of July, 2010.

s/ John W. Lungstrum  
John W. Lungstrum  
United States District Judge