

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

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**CARLOS LOPEZ,**

**Defendant.**

**Case No. 06-20183**

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**MEMORANDUM AND ORDER**

Defendant Carlos Lopez was convicted by a jury of conspiracy to possess with intent to distribute and possession with intent to distribute methamphetamine. He was sentenced to 360 months imprisonment.

Several months ago, Mr. Lopez filed a motion asking the court to order his attorney, Michael L. Harris of the Federal Public Defender's Office, to provide him with "a copy of all the case documents" from his case. (Doc. 139.) In response to that motion, Mr. Harris represented that he mailed to Mr. Lopez a copy of the indictment, a transcript of the suppression hearing, the memorandum and order from the suppression hearing, the trial transcript, the ruling on the motion for a new trial, the sentencing transcript, the judgment and commitment order, and the Tenth Circuit Court of Appeals opinion. Mr. Harris also noted that copies of the briefs filed in the appeal had been previously provided to Mr. Lopez. (Doc. 141.) Based on Mr. Harris's representation,

the court concluded that Mr. Lopez had received the relief he was seeking and denied his motion as moot. (Doc. 142.)

Mr. Lopez has now filed a motion to reconsider that order (doc. 147), claiming that he has not received the discovery material he requested.

The court first notes that the October 12, 2010 order Mr. Lopez is challenging does not address discovery materials. It merely ruled on Mr. Lopez's motion (doc. 139) requesting documents from Mr. Harris, which did not seek any specific discovery materials.

Mr. Lopez previously filed, however, a motion for the court to provide him with the discovery material located at Docket 25. (Doc. 144.) The court granted that motion, and ordered to the clerk's office to mail Mr. Lopez a copy of Docket 25, which was the General Order of Discovery and Scheduling. (Doc. 145.)

It appears, however, that Mr. Lopez wishes to receive the actual discovery materials themselves. He attached to his motion to reconsider a letter from Mr. Harris's office, informing him that Mr. Harris cannot turn over any discovery from the case because "we are bound by an agreement with the United States Attorneys office not to distribute copies of discovery." (Doc. 147, Ex. A.) And he argues that now that the trial is over, he "has a right" to the discovery materials.

Given the letter from Mr. Harris, it appears that he obtained discovery items from the Government as part of an express agreement that they would not be disseminated. Acting as Mr. Lopez's agent in negotiations with the Government, Mr. Harris agreed to

those terms, and the court will uphold those agreements. Thus, the discovery documents will not be furnished to Mr. Lopez.

**IT IS ORDERED BY THE COURT** that defendant's motion to reconsider (doc. 147) is denied.

**IT IS SO ORDERED** this 31st day of January, 2011.

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