

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MCDANIEL,

Defendant.

Case No. 07-20168

MEMORANDUM AND ORDER

Defendant Keith McDaniel was convicted of conspiracy to manufacture and to possess with intent to distribute cocaine and cocaine base. He received a 360-month prison sentence. His case is currently on appeal to the Tenth Circuit Court of Appeals, No. 09-3273.

Mr. McDaniel has filed a motion for additional time (doc. 1358) to reply to his pending motion for a new trial and a motion for documents (doc. 1359), which the Government opposes (doc. 1364).

For the reasons set forth below, Mr. McDaniel's motions are denied.

DISCUSSION

Mr. McDaniel asks the court to order the Government to turn over the case file of DEA Agent Tim McCue. Agent McCue testified at trial and helped to identify Mr. McDaniel's voice on several tape recordings. Mr. McDaniel notes that Agent McCue

was “recently found by a federal district court judge in an unrelated case to lack credibility as a witness,” and he wants to review the case file in the unrelated case to further investigate Agent McCue’s credibility.

In response, the Government contends that the credibility finding about Agent McCue was not made until over a year after Mr. McDaniel’s trial. Moreover, the Government notes that it complied with *Brady* and *Giglio* requirements to disclose information available to it at the time of trial. The Government also asserts that Mr. McDaniel’s attorney was free to review discovery materials with him, but that much of the discovery, particularly Agent McCue’s case file, would pose security risks if disseminated to an inmate in a correctional facility.

Based on these representations from the Government, Mr. McDaniel’s motion for documents and his motion for additional to reply are denied.

IT IS ORDERED BY THE COURT that defendant’s motion for an extension of time (doc. 1358) and his motion for documents (doc. 1359) are denied.

IT IS SO ORDERED this 28th day of July, 2011.

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