

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL ACTION
)	
v.)	No. 08-20160-01-KHV
)	
JUAN MATA-SOTO,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

On July 18, 2011, the Court overruled defendant’s motion under 28 U.S.C. § 2255 to vacate, set aside or correct sentence. On June 8, 2012, the Tenth Circuit dismissed defendant’s appeal for failure to pay the required filing fee. This matter is before the Court on defendant’s Motion To Request To The Court Defendant’s Transcripts To [Be] Provided At No Cost For Appeal To Proceed In Formal [sic] Pauperil [sic] (Doc. #411) filed June 24, 2013. Defendant seeks a copy of the sentencing transcript for appeal and for a potential habeas proceeding, presumably under 28 U.S.C. § 2255. Absent a showing of a particularized need, the Court generally does not provide copies of transcripts or other information to indigent prisoners. Rule 7 of the Rules Governing Section 2255 Proceedings (if motion not summarily dismissed, court may order expansion of record to include additional materials relevant to motion); see 28 U.S.C. § 753 (fees for transcripts paid by United States if judge certifies that suit or appeal is not frivolous and that transcript is needed to decide issue presented); 28 U.S.C. § 2250 (United States shall furnish without cost to indigent prisoner such documents as judge may require); Brown v. N.M. Dist. Court Clerks, 141 F.3d 1184, 1998 WL 123064, at *3 n.1 (10th Cir. Mar. 19, 1998) (to obtain free copy of transcript, habeas petitioner must demonstrate claim not frivolous and materials needed to decide issue presented by suit); United

States v. Sistrunk, 992 F.2d 258, 260 (10th Cir. 1993) (under 28 U.S.C. § 753(f), indigent defendant entitled to free copy of transcript on showing of particularized need); Ruark v. Gunter, 958 F.2d 318, 319 (10th Cir. 1992) (prisoner does not have right to free transcript simply to search for error in record); see also United States v. Horvath, 157 F.3d 131, 132 (2d Cir. 1998) (motion for free transcript under Section 753 not ripe until Section 2255 motion has been filed). No appeal or habeas petition is pending. Defendant has not shown a particularized need for the sentencing transcript. The Court therefore overrules defendant's request.

IT IS SO ORDERED.

Dated this 15th day of August, 2013 at Kansas City, Kansas.

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