

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 6:09-cr-10032-JTM-1

LAWRENCE M. SIMONS, SR.,

Defendant.

**MEMORANDUM AND ORDER**

Defendant Lawrence Simons pled guilty in this case to two counts of unlawful distribution of a controlled substance. Dkt. 39. He was sentenced to 24 months imprisonment to be followed by three years of supervised release. Dkt. 61.

Defendant has filed several motions that bear both the above case number and a separate case number (No. 13-cr-10080). In the latter case, defendant was convicted by a jury of unlawful possession of a firearm by a previously convicted felon. Because defendant's motions bear both case numbers, they were filed in both cases, but a review of the motions now indicates that they pertain largely to Case No. 13-cr-10080 rather than to this case.

Defendant's motion for miscellaneous relief (Dkt. 137) seeks discovery related to his other case and is therefore denied. Defendant's application to proceed *in forma pauperis* (Dkt. 138) is irrelevant to the instant case, as defendant does not face the prospect of paying any fees to proceed in this matter. The motion to appoint counsel (Dkt. 145) is denied, as defendant has no shown no basis for such relief.

With respect to defendant's motion for relief (Dkt. 149), the bulk of this rambling discourse appears to relate to defendant's various state court cases or to Case No. 13-cr-10080, although the motion also contains periodic challenges to the validity of defendant's conviction in the instant case. To the extent this motion can be construed as a motion to vacate sentence under 28 U.S.C. § 2255,<sup>1</sup> it is a second or successive motion within the meaning of 28 U.S.C. § 2255(h), over which this court does not have jurisdiction.

**IT IS THEREFORE ORDERED** this 23<sup>rd</sup> day of January, 2017, that defendant's motions for miscellaneous relief (Dkt. 137), to proceed *in forma pauperis* (Dkt. 138) and for appointment of counsel (Dkt. 145) are DENIED. Defendant's motion for relief (Dkt. 149) is DISMISSED for lack of jurisdiction. The court additionally denies a certificate of appealability with respect to the above rulings, as there is no basis for a good-faith appeal.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE

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<sup>1</sup> Defendant's motion (Dkt. 149) at times cites § 2255 and at other times mentions a writ of coram nobis. Dkt. 149 at 6. To the extent it is based on coram nobis, the motion fails to establish due diligence in bringing the claim, or that the issues could not have been raised through direct appeal or a § 2255 motion. See *United States v. Tarango*, \_\_\_F.App'x \_\_\_, 2016 WL 6892144 (10th Cir. Nov. 23, 2016).