

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CRIMINAL ACTION</b>
	)	
<b>v.</b>	)	<b>No. 09-40049-01-KHV</b>
	)	
<b>GREGORY D. CROSBY,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**MEMORANDUM AND ORDER**

Defendant seeks the return of \$3000.00 in cash that he alleges was in the car in which he was arrested. This matter is before the Court on Defendant’s Response In Opposition To The Court Order To Show An Alternative Relief Or In The Alternative For The Government To Settle The Property Claim (Doc. #187) filed August 21, 2017. For reasons stated below, the Court sustains in part defendant’s request for alternative relief.

On January 19, 2016, the government sent defendant all of his personal property that remained in the custody of the Topeka Police Department. See Notice Of Return Of Property (Doc. #172) at 1-2. The same day, the government filed an itemized list of all property that it had returned to defendant. See id. On June 16, 2017, the government filed a supplemental notice that it had sent defendant additional miscellaneous items that remained in its possession. See Notice Of Return Of Property (Doc. #181) at 1-2. The Court previously held that because the government does not have the money that was purportedly in the car when defendant was arrested, the Court lacks jurisdiction to award relief under Rule 41(g) of the Federal Rules of Criminal Procedure. See Memorandum And Order (Doc. #185) at 2 (citing United States v. Soto-Diarte, 370 F. App’x 886, 888 (10th Cir. 2010))

(Rule 41(g) not proper vehicle for obtaining monetary compensation for seized property no longer in government possession)). Based on the conclusory nature of defendant's motion for relief, however, the Court ordered that defendant could file a request for alternative relief. See id. at 2 n.1 (citing United States v. Norwood, 602 F.3d 830, 833 (7th Cir. 2010) (outlining various alternative forms of relief)).

Defendant states that he seeks "alternative relief" as follows: (1) "the Court may send him the proper civil forms to file a lawsuit," (2) if other relief cannot be granted, the Court may send him the "administrative forfeit forms" and (3) the government could settle the matter for "under \$500.00." Defendant's Response In Opposition To The Court Order To Show An Alternative Relief Or In The Alternative For The Government To Settle The Property Claim (Doc. #187) at 2-3.

As to defendant's first request, the precise nature of his proposed civil lawsuit is unclear, but it appears that he requests forms for a lawsuit under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). The Clerk is directed to mail defendant a copy of the "Information And Instructions For Prisoners Filing Civil Rights Complaints Under 42 U.S.C. § 1983 Or Bivens Actions" and the form complaints under both 28 U.S.C. § 1331 and 42 U.S.C. § 1983. In addition, a civil lawsuit will require the payment of a filing fee. Accordingly, the Clerk is directed to mail defendant a copy of the form "Application To Proceed Without Prepayment Of Fees And Affidavit By A Prisoner."

As to defendant's alternative request for "administrative forfeit forms," the Court

does not maintain administrative forms for other government agencies. He must make any such request to the specific administrative agency.

Defendant's request for settlement does not seek any Court involvement. In any event, the government states that it declines any apparent offer or compromise. Government's Response To Defendant's Motion For Status (Doc. 189) (Doc. #191) filed December 28, 2018 at 5.

**IT IS THEREFORE ORDERED** that Defendant's Response In Opposition To The Court Order To Show An Alternative Relief Or In The Alternative For The Government To Settle The Property Claim (Doc. #187) filed August 21, 2017 is **SUSTAINED in part**. The Clerk is directed to mail defendant a copy of the "Information And Instructions For Prisoners Filing Civil Rights Complaints Under 42 U.S.C. § 1983 Or Bivens Actions," the form complaints under both 28 U.S.C. § 1331 and 42 U.S.C. § 1983 and the form "Application To Proceed Without Prepayment Of Fees And Affidavit By A Prisoner." Defendant's alternative requests are **OVERRULED**.

**IT IS FURTHER ORDERED** that Defendant's Motion For Status [Of Request For Alternative Relief Or] For A Final Order To Appeal To U.S. Court Of Appeal (Doc. #189) filed December 3, 2018 is **OVERRULED as moot**.

Dated this 7th day of August, 2019 at Kansas City, Kansas.

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