IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)
Plaintiff,))
vs.) Case No. 09-40073-JAR
BRIAN MAURICE WRIGHT,)
Defendant.)

ORDER DENYING MOTION TO APPOINT COUNSEL

The Court now considers defendant Brian Maurice Wright's Motion to Appoint Counsel (Doc. 40). He asks that "the courts appoint me an attorney in the filing of my 2255 case."

Defendant's sentence was recently affirmed by the Tenth Circuit on direct appeal and he has not yet filed a motion for habeas corpus relief pursuant to 28 U.S.C. § 2255.

Rule 8(c) of the Rules governing section 2255 proceedings requires appointment of counsel if an evidentiary hearing on the motion is required. Because defendant has not even filed a motion under section 2255, this motion to appoint counsel is premature.

IT IS THEREFORE ORDERED BY THE COURT that defendant's Motion to Appoint Counsel (Doc. 40) is **denied** without prejudice to refiling.

Dated: April 20, 2011

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE