

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

United States of America,

Plaintiff,

v.

Case No. 10-20037-02-JWL

Randy J. Dyke,

Defendant.

MEMORANDUM & ORDER

In July 2011, a jury convicted Mr. Dyke of various drug trafficking crimes, including conspiracy to intentionally manufacture, distribute and possess with intent to distribute more than 50 grams of methamphetamine. The court sentenced Mr. Dyke to a 235-month term of imprisonment and the Tenth Circuit affirmed Mr. Dyke's conviction. *United States v. Dyke*, 718 F.3d 1282 (10th Cir. 2013). Thereafter, the court denied Mr. Dyke's § 2255 petition and the Circuit denied Mr. Dyke's request for a certificate of appealability and dismissed Mr. Dyke's appeal of that memorandum and order. In February 2015, the court reduced Mr. Dyke's sentence to 210 months under Amendment 782.

In November 2015, Mr. Dyke filed a pro se motion for a court order directing Mr. Dyke's trial counsel to release his case file to him. By early April 2016, Mr. Dyke's trial counsel released the case file to Mr. Dyke. This matter is now before the court on a letter written to the Clerk of the Court by Mr. Dyke in which he requests an evidentiary hearing in light of "new evidence" obtained by him after reviewing the case file—specifically, evidence of a purported

agreement between his trial counsel and the government pursuant to which his counsel agreed not show any discovery to Mr. Dyke.

Because there is no substantive motion pending before the court, there is no issue or claim to which an evidentiary hearing might relate. The motion, then, is denied. While Mr. Dyke references his § 2255 motion, that motion has already been resolved. To the extent Mr. Dyke seeks to file a second § 2255 petition, he must first obtain authorization from the Circuit. If he does not want to file a successive petition, then he must find a proper procedural vehicle through which the court might address the purported agreement between counsel and the government.

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. Dyke's motion for evidentiary hearing (doc. 389) is **denied**.

IT IS SO ORDERED.

Dated this 25th day of May, 2016, at Kansas City, Kansas.

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