

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

The United States of America,  
Plaintiff,

vs.

Case No. 11-10185-01-JTM

Alfred C. Dutton,  
Defendant.

MEMORANDUM AND ORDER

The court has before it defendant Alfred Dutton's Motion for Reconsideration (Dkt. 135). The government did not file a response brief. The court grants the motion for the following reasons.

On July 18, 2013, after a trial by jury, Dutton was convicted on one count of unlawful possession of destructive devices. On November 13, 2013, Dutton filed a motion seeking the return of his property. Dkt. 132. Specifically, Dutton sought the return of his firearms, which were seized during the search of his home. As a felon, Dutton realizes that he is not legally allowed to possess firearms. However, Dutton asks that the government either give the firearms to his friends or family as gifts or have someone sell the firearms and give Dutton the proceeds.

The court denied the motion because the judgment entered against Dutton required him to forfeit to the United States "all firearms and destructive devices recovered from Mr. Dutton on or about August 23, 2011." Dkt. 130. However, the

judgment specifically required Dutton to forfeit only those “firearms and destructive devices involved in the commission of the offenses . . . .” *Id.* The guns seized by the government were not alleged to have been involved in commission of Dutton’s offenses. These firearms do not fall within the forfeiture requirements. Therefore, the court grants the motion to reconsider, and in doing so, determines that the motion to return Dutton’s property should be granted.

As a convicted felon, Dutton admits he is barred from owning or possessing these firearms, so returning these guns to him, personally, would present a problem. However, the government’s response to Dutton’s motion to return property provides a sufficient remedy for this quagmire. Accordingly, the court orders the government to sell the firearms to a person possessing a federal firearm’s license and turn over the proceeds from that sale to Dutton.

IT IS THEREFORE ORDERED this 13th day of January, 2014, that Dutton’s Motion for Reconsideration (Dkt. 135) is granted, and his Motion for Return of Property (132) is also granted.

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