

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

NATHAN WALLACE,

Defendant.

CRIMINAL ACTION

No. 12-20083-29-KHV

MEMORANDUM AND ORDER

On November 17, 2015, the Court sentenced defendant to time served and 15 years of supervised release. On May 26, 2021, the Court terminated defendant's supervised release. This matter is before the Court on defendant's pro se Motion For Return Of Property Pursuant To Fed. R. Crim. P. 41(g) (Doc. #3058) filed August 16, 2023. For reasons stated below, the Court overrules defendant's motion.

Defendant asks the Court to order the government to return a backpack and its contents, which the government used as exhibits at the trial of his co-defendants. Officers originally discovered these items during a car stop of co-defendants Roosevelt Dahda and Sadie Brown.

A person aggrieved by an unlawful search and seizure of property or by deprivation of property may move for the property's return. Fed. R. Crim. P. 41(g). Because Roosevelt Dahda recently filed an appeal of the denial of his motion to vacate under 28 U.S.C. § 2255, the government seeks to retain the two exhibits. In the event that Roosevelt Dahda ultimately prevails on his Section 2255 motion after an appeal, the government may need the exhibits as evidence in a hearing or possible retrial. Accordingly, the Court overrules defendant's motion for return of seized property. Defendant may re-file his motion after the conclusion of Roosevelt

Dahda's appeal on his Section 2255 motion. See United States v. Washington, No. 07-20090-02-KHV, 2011 WL 6258491, at *1 n.1 (D. Kan. Dec. 15, 2011).

IT IS THEREFORE ORDERED that defendant's pro se Motion For Return Of Property Pursuant To Fed. R. Crim. P. 41(g) (Doc. #3058) filed August 16, 2023 is **OVERRULED**.

Dated this 31st day of January, 2024 at Kansas City, Kansas.

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