

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

United States of America,

Plaintiff,

v.

Case No. 15-20003-JWL

Landein Craddock and Jerome Davis,

Defendants.

MEMORANDUM AND ORDER

On December 10, 2021 the court issued an order granting defendant Davis's motion for order concerning restitution payments in this case. In pertinent part, the court directed the United States, through the Financial Litigation Program Assistant United States Attorney, to initiate a refund to the United States Treasury of the Treasury Offset Payment of \$1,184.66 received May 28, 2021, that was offset from Defendant Davis and directed the Treasury to forward the amount of the offset back to defendant Davis. After the court issued its order, defendant Davis filed a second reply (the court issued its order after receiving defendant's reply brief) to the government's response in which he challenges the government's calculations of the amounts owed to him; asserts that the Treasury Offset Payment should be reimbursed directly to him without refunding that amount to the Treasury in the first instance; and asserts that he should be reimbursed immediately without regard to the timing of the FBI and OPPD's payment of funds to the Clerk of the Court.

The government filed a motion seeking leave to file a surreply to defendant's reply, which the court granted. The court also provided defendant Davis the opportunity to file a sur-surreply, which the court has received. After reviewing the record, the court, except for the correction of

one typographical error, will not modify its prior order regarding payments and refunds to defendants. The government's calculations, with its clarification about the offset fee of \$18.80 which will be refunded to defendant Davis by the Treasury, are accurate and consistent with the BOP's records. There is no evidence of a \$25.00 deduction from defendant Davis's account on November 1, 2021. Moreover, it is clear to the court that the Treasury rather than the Clerk of the Court must refund to defendant Davis the amount of the offset. Finally, the court anticipates no delay in the FBI or OPPD turning over funds in their possession to the Clerk of the Court and reiterates that the Clerk of the Court shall await the deposit of these funds before refunding amounts due to defendants.

The court has, however, uncovered a typographical error in both the government's response (in an explanatory footnote) to defendant's motion and the court's prior order. In paragraph (5) of the court's order, it stated that the Clerk of the Court shall issue a refund of the \$344 restitution overpayment to Defendants Craddock and Davis pro rata, or \$290.58 to Defendant Craddock and \$43.42 to Defendant Davis. While the pro rata amounts are correct, the total restitution overpayment is \$334 rather than \$344. Moreover, the court will direct the government to file a status report with the court (and to provide a copy of that status report to both defendants) no later than Friday, February 11, 2022 concerning the amounts due in this case.

IT IS THEREFORE ORDERED BY THE COURT THAT the government shall file a status report and provide a copy of that status report to both defendants no later than Friday, February 11, 2022.

IT IS FURTHER ORDERED BY THE COURT THAT paragraph (5) of the court's December 10, 2021 Memorandum and Order be corrected to read as follows:

(5) The Clerk of the Court shall issue a refund of the \$334 restitution overpayment to Defendants Craddock and Davis pro rata, or \$290.58 to Defendant Craddock and \$43.42 to Defendant Davis.

IT IS SO ORDERED.

Dated this 12th day of January, 2022, at Kansas City, Kansas.

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