

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

In re: CCA Recordings 2255 Litigation,

Petitioners,

v.

Case No. 19-cv-2491-JAR

**(This Order Relates to Case No. 19-2372)**

United States of America,

Respondent.

**ORDER**

On January 17, 2020, Petitioner Mamoudou M. Kaba filed a motion for leave to conduct civil discovery (ECF No. 53). The court stayed briefing on the motion pending a decision on a similar motion filed by petitioner Petsamai Phommaseng.<sup>1</sup> The court has now issued a decision on Phommaseng's motion.<sup>2</sup> The court therefore resets the response deadline for Kaba's motion for leave to conduct discovery to **March 4, 2020**, and the reply deadline to **March 11, 2020**.

In their respective briefs, which must be limited to five double-spaced pages, the court asks the parties to address whether Kaba's motion has been mooted by the discovery permitted in the Phommaseng order. Although, of course, an analysis of whether Kaba has

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<sup>1</sup> See ECF No. 56 at 13.

<sup>2</sup> ECF No. 79.

demonstrated good cause under Rule 6(a) to conduct discovery would be distinct from the application of Rule 6(a) to Phommaseng, as a practical matter the discovery Kaba requests will have been produced to the Federal Public Defender (“FPD”) by the government in Phommaseng’s case. Particularly given that the same attorneys are involved in nearly all of the § 2255 cases consolidated for discovery in Case No. 19-2491, on the surface it appears most efficient to allow any petitioner to use discovery obtained in another petitioner’s case.<sup>3</sup> However, the court would like the parties to address this issue, taking into account both legal and practical considerations. There is no impediment, of course, to *particularized* discovery in individual cases, such as requesting information about recordings involving the particular petitioner or about unique circumstances surrounding the particular petitioner’s criminal case.

IT IS SO ORDERED.

Dated February 24, 2020, at Kansas City, Kansas.

s/ Julie A. Robinson  
Julie A. Robinson  
Chief U.S. District Judge

s/ James P. O’Hara  
James P. O’Hara  
U.S. Magistrate Judge

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<sup>3</sup> The likely alternative would see the government producing the same discovery hundreds of times to the FPD.