

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:15-cr-42-SPC-KCD

TAVARES FELTON

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**ORDER<sup>1</sup>**

Before the Court is pro se Defendant Tavares Felton's Motion to Reconsider Docs. 107, 108 Return of Seized Property (Doc. 129), along with the Government's response (Doc. 131).

Seven years ago, the Fort Myers Police Department seized three cell phones during Defendant's arrest. A few years after his sentencing, Defendant asked for the phones back. (Doc. 107). The Court denied his request because the Government had a continuing need for them as evidence until the Court resolved his § 2255 motion. (Doc. 114 at 3).

Fast forward four years. Defendant now moves again to return the cell phones because "the United States has no legitimate reason to retain the property as evidence being that [his] 2255 proceedings is closed." (Doc. 129 at 2). But that's not true. Since moving for reconsideration of the phones' return,

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<sup>1</sup> Disclaimer: Papers hyperlinked to CM/ECF may be subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or their services or products, nor does it have any agreements with them. The Court is not responsible for a hyperlink's functionality, and a failed hyperlink does not affect this Order.

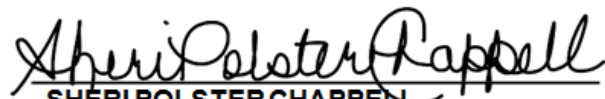
Defendant has filed another § 2255 motion that remains pending. (Doc. 135). Because Defendant has put another § 2255 motion in play, the Court will deny without prejudice his motion to return any cell phones associated with this case and within its or the Fort Myers Police Department's custody. That's because the Government continues to have a legitimate reason to retain them as evidence until the latest § 2255 motion is resolved.

Accordingly, it is now

**ORDERED:**

Pro se Defendant Tavares Felton's Motion to Reconsider Doc. 107, 108 Return of Seized Property (Doc. 129) is **DENIED without prejudice**.

**DONE AND ORDERED** in Fort Myers, Florida on October 27, 2022.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies:      Counsel of Record  
                 Defendant