

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:17-CR-119-T-17AAS

LUIS ALBERTO COIME-AGUNO.

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ORDER

This cause is before the Court on:

Dkt. 88 Motion Requesting a Copy of Sentencing Transcripts

Defendant Luis Alberto Coime-Aguno, pro se, requests a copy of Defendant's sentencing transcript. Defendant Coime-Aguno asserts that Defendant is in need of his sentencing transcript in order to direct the Court's attention to the portions which justify Defendant's claims.

Defendant Coime-Aguno was sentenced on August 30, 2017. (Dkts. 63, 67). Defendant Coime-Aguno has not appealed Defendant's sentence, nor has Defendant filed a Sec. 2255 motion.


In the Motion, Defendant Coime-Aguno has not explained what claims the materials Defendant Coime-Aguno has requested would have helped Defendant Coime-Aguno to raise. Defendant Coime-Aguno has not included any allegations that might establish that Defendant Coime-Aguno is entitled to Defendant's sentencing transcript at this time.

After consideration, the Court finds that Defendant Coime-Aguno's Motion for a Copy of Sentencing Transcripts is premature. The Court notes that a district

court's denial of a federal prisoner's transcript request has been affirmed on appeal where there is no appeal pending and the defendant had not moved to vacate his sentence under Sec. 2255. See Walker v. United States, 424 F.2d 278, 279 (5th Cir. 1970) (holding that "only where a [habeas] petitioner...has been granted leave to proceed in forma pauperis and his application is pending before the court is that petitioner entitled to be furnished copies of court records without costs."). Based on the plain language and necessary operation of [28 U.S.C. Sec. 753(f)],... a motion for a free transcript pursuant to Sec. 753(f) is not ripe until a Sec. 2255 motion has been filed. United States v. Horvath, 157 F.3d 131, 132 (2d Cir. 1998); see also United States v. Losing, 601 F.2d 351, 352 (8th Cir. 1979) (holding that, under the language of Sec. 753(f) and the Supreme Court's decision in United States v. MacCollom, 426 U.S. 317 (1996), any request for a free transcript prior to the filing of a section 2255 complaint is premature). Accordingly, it is

ORDERED that pro se Defendant Luis Alberto Coime-Aguno's Motion for a Copy of Sentencing Transcripts (Dkt. 88) is **denied without prejudice**.

DONE and ORDERED in Chambers in Tampa, Florida on this 31st day of October, 2018.


ELIZABETH A. KOVACHEVICH
United States District Judge

Case No. 8:17-CR-119-T-17AAS

Copies to:

All parties and counsel of record

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