

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:18-CR-53-T-17AEP

AMILKA MURILLO HURTADO.

_____ /

ORDER

This cause is before the Court on:

Dkt. 116 Motion to Waive the Fees on Court Records

Defendant Amilka Murillo Hurtado, pro se, requests that the Court waive the cost for court records which could help Defendant in filings that Defendant Hurtado wishes to file.

Defendant Hurtado was sentenced on August 9, 2018. Defendant Hurtado has not appealed the Judgment entered in this case, nor has Defendant Hurtado filed a Sec. 2255 Petition or a habeas Petition.

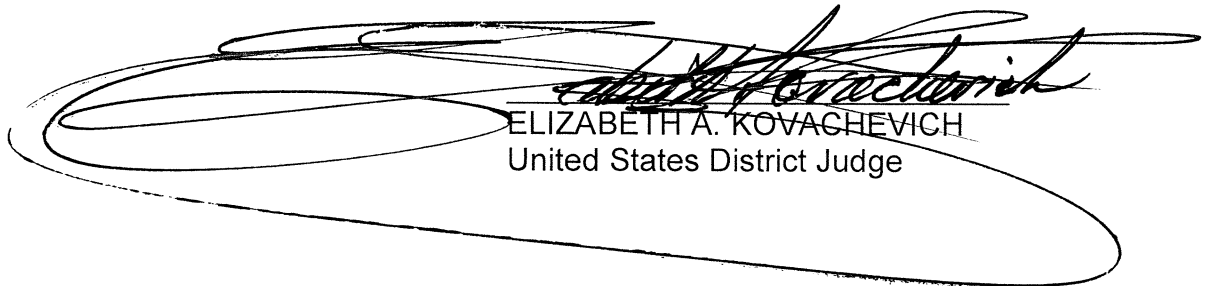
In the Motion, Defendant Hurtado has not explained what claims the court records that Defendant Hurtado intends to request would have helped Defendant Hurtado to raise. Defendant Hurtado has not included any allegations that might establish that Defendant Hurtado is entitled to transcripts and court records at this time.

After consideration, the Court finds that Defendant Hurtado's Motion to Waive Fees on Court Records 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 has 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 Amilka Murillo Hurtado’s Motion to Waive Fees on Court Records (Dkt. 116) is **denied without prejudice**.

DONE and ORDERED in Chambers in Tampa, Florida on this 3rd day of May, 2019.


ELIZABETH A. KOVACHEVICH
United States District Judge

Case No. 8::18-CR-53-T-17AEP

Copies to:
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