

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 10-1523

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United States of America,

Appellee,

v.

Tracy Alan Barnett,

Appellant.

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Appeal from the United States  
District Court for the  
Southern District of Iowa.

[UNPUBLISHED]

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Submitted: August 6, 2010  
Filed: August 11, 2010

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Before BYE, BOWMAN, and COLLOTON, Circuit Judges.

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PER CURIAM.

Tracy Barnett, who is serving a 20-year sentence for child-pornography offenses, appeals the district court's<sup>1</sup> order effectively denying his request for a copy of an exhibit used at his sentencing hearing. He argues that he needs the exhibit to prepare a 28 U.S.C. § 2255 motion.

Upon careful review, we find no basis for reversal because it is undisputed that Barnett had not filed a section 2255 motion at the time he requested the exhibit. See

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<sup>1</sup>The Honorable John A. Jarvey, United States District Judge for the Southern District of Iowa.

United States v. Losing, 601F.2d 351, 351-53 (8th Cir. 1979) (per curiam) (where appellant filed motion in district court requesting records and transcript from his criminal trial for purpose of eventually filing § 2255 motion, district court denied motion as premature and this court affirmed). We also decline to address Barnett's First Amendment argument. See United States v. Turechek, 138 F.3d 1226, 1229 (8th Cir. 1998) (federal courts have duty to avoid constitutional issues that need not be resolved in order to determine rights of parties in case under consideration).

Accordingly, the district court's order is affirmed. See 8th Cir. R. 47B.

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