

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JAMES ROBERT COTTER,

Petitioner,

vs.

CASE NO. 3:10-cv-1075-J-20TEM
3:08-cr-326-J-20TEM

UNITED STATES OF AMERICA,

Respondent.

ORDER

This case is before the Court on Petitioner's Response to Denial of Requested Discovery (Doc. #18) that was filed by Petitioner, as a *pro se* litigant, on February 8, 2011. The Court will construe the filing as a motion for reconsideration. The United States has not responded to the instant motion. The matter is ripe for the Court's consideration.

In an earlier motion for delivery of discovery (Doc. #13), Petitioner requested the delivery of information downloaded from his computer and allegedly held by his previously appointed counsel, Mr. James H. Burke, Jr., Esq., who represented Petitioner during the sentencing phase of his criminal case. The Court denied Petitioner's request for release of the requested information, as it constituted child pornography (see Doc. #16). Under Title 18 U.S.C. § 3509(m), any property that constitutes child pornography in any criminal proceeding shall remain in the care, custody and control of the government or the court. Courts must deny any request by the defendant to copy such materials, although his counsel is allowed to inspect the materials at a government facility. See *id.* Since Petitioner's trial counsel would not have possession of the computer contents, the Court

denied Petitioner's request for release of the same (see Doc. #16).

Presently, Petitioner asks the Court to reconsider the order denying Petitioner's request for release of discovery (Doc. #16). In the motion for reconsideration (Doc. #18), however, Petitioner alleges no new facts and raises no new issues that would in any way alter the reasoning employed by the Court in issuing the previous order (see Docs. #13, #16, #18). This Court has previously said that it will not reconsider when the motion does not raise new issues but only relitigates what has already been found lacking. *Reyher v. Equitable Life Assurance Soc'y of the U.S.*, 900 F. Supp. 428, 430 (M.D. Fla. 1995). Thus, the Court finds no basis for providing the sought discovery under the circumstances of this case.

Having reviewed the instant motion, and upon due consideration, it is hereby

ORDERED:

Petitioner's Response, construed as a motion for reconsideration (Doc. #18), is

DENIED.

DONE AND ORDERED at Jacksonville, Florida this 25th day of March, 2011.



THOMAS E. MORRIS
United States Magistrate Judge

Copies to:
United States Attorney (Frein)
Pro se Petitioner
FPD (Burke)