

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IRA BURDELL WAKEFIELD,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM DECISION AND
ORDER GRANTING IN PART AND
DENYING IN PART PETITIONER'S
MOTION FOR DOCUMENTS

Case No. 2:11-CV-76 TS

This matter is before the Court on Petitioner's Motion for Documents. In that Motion, Petitioner requests a number of documents from his underlying criminal case to help him prepare his § 2255 Motion.¹ The Court will grant the Motion in part and deny it in part.

In his Motion, Petitioner seeks the following documents: (1) the government's Statement of Discovery Policy; (2) the government's proposed witness list; (3) the jury panel record (filed under seal); (4) the government's witness and exhibit list; (5) jury notes (filed under seal); and (6) transcripts from various hearings.

¹The Court notes that Petitioner's Motion was filed shortly after he filed a § 2255 Motion.

28 U.S.C. § 753(f) allows free copies of transcripts if the court “certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.” The Tenth Circuit has applied § 753(f) to resolve requests for other court documents.² Since Petitioner requests two documents that are filed under seal, Petitioner must obtain a court order in order to access those documents.³

The Court has reviewed Petitioner’s Motion as well as his § 2255 Motion. Based on that review, the Court finds that it is appropriate for Petitioner to be provided with the majority of the documents he requests. Specifically, the Court will provide the government’s Statement of Discovery Policy, the government’s proposed witness list, the government’s witness and exhibit list, and copies of the requested transcripts. However, the Court will not provide Petitioner with a copy of the jury panel record or the jury notes. Nothing in his § 2255 Motion pertains to the jury or the notes they submitted to the Court during trial. Therefore, these documents are not needed to decide the issues presented in his § 2255 Motion and his request for these documents will be denied.

It is therefore

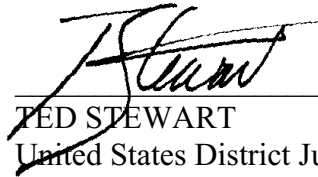
ORDERED that Petitioner’s Motion for Documents (Docket No. 4) is GRANTED IN PART AND DENIED IN PART. The Clerk of the Court is directed to provide Petitioner the documents set forth above.

²*United States v. Lewis*, 1994 WL 563442, at *1 (10th Cir. Oct. 14, 1994) (applying the § 753(f) standard to a defendant's request for documents).

³DUCivR 5-2(e).

DATED October 4, 2011.

BY THE COURT:



TED STEWART
United States District Judge