

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 20, 2008

Charles R. Fulbruge III
Clerk

No. 07-20356
Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MARVIN ARTURO PERALTA-RAMIREZ

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:04-CR-150-6

Before KING, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Marvin Arturo Peralta-Ramirez (Peralta) was convicted of conspiracy to smuggle illegal aliens into the United States and related crimes, in violation of 8 U.S.C. § 1324 and 18 U.S.C. § 1203. Peralta's conviction and sentence were affirmed on direct appeal. See *United States v. Ibarra-Zelaya*, 465 F.3d 596 (5th Cir. 2006), cert. denied, 127 S. Ct. 992 (2007). Peralta appeals the district court's denial of his motion for free copies of court records and trial transcripts. Peralta alleges that he is entitled to free copies of various court documents and

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

transcripts so that he may proceed with a request for relief under 28 U.S.C. § 2255.

An indigent defendant has no constitutional right to acquire a free copy of his transcript or other court records for use in a collateral proceeding. See *United States v. MacCollom*, 426 U.S. 317, 325-26 (1976). When Peralta filed his motions for court documents in the district court, he did not have a § 2255 motion pending before the district court. Thus, Peralta is not entitled to receive the documents in question. See *United States v. Carvajal*, 989 F.2d 170, 170 (5th Cir. 1993); *Walker v. United States*, 424 F.2d 278, 278-79 (5th Cir. 1970).

Accordingly, the district court did not err in denying Peralta's motion. The appeal is dismissed as frivolous. 5TH CIR. R. 42.2. We caution Peralta that the filing of frivolous appeals may result in the imposition of sanctions. These sanctions may include dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction. Peralta should review any pending appeals to ensure that they are not frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.