

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JACOB STADFIELD,

Defendant.

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ORDER

13-cv-722-bbc

08-cv-138-bbc

Defendant Jacob Stadfield filed a motion for post conviction relief under 28 U.S.C. § 2255 on October 14, 2013, setting out a number of reasons why he thinks his conviction is illegal. The government filed its response on December 9, 2013. Thereafter, defendant was transferred within the federal prison system and sought extensions of time in which to file his reply brief because, he said, he did not have access to his legal materials. He was given two extensions of time, but told that he must file his reply brief by March 24, 2014.

Now defendant has filed a “motion for subpoena or order to produce documents,” seeking copies of the materials the government used to justify the issuance of a warrant authorizing them to search the residence of Amos Mortier, defendant’s alleged partner in large scale marijuana distribution. Defendant alleges that police officers entered Mortier’s residence on November 15, 2004 without a warrant and used the results of that search to file what he calls a tainted affidavit of probable cause, allowing them to search the house on

the next day. In addition, he says, the police seized materials not specified in the warrant and used these materials against him at his trial. Defendant believes that the evidence seized during the second search was used to prove his participation in the marijuana conspiracy; his trial counsel did not object properly to the introduction of the illegally seized evidence and having access to it would enable defendant to develop a claim that his trial counsel gave him constitutionally ineffective assistance. The fact that he cannot relitigate the seizure of the materials at this stage of the proceedings does not mean that he cannot litigate the constitutional effectiveness of his trial counsel. Owens v. United States, 387 F.3d 607 (7th Cir. 2004).

Although discovery is allowed in federal habeas actions, the movant must obtain leave of court before conducting any discovery. Rules Governing Habeas Corpus and Motions Attacking Sentence 6(a). The party making the request must provide reasons for the request, which defendant has done, and must “specify any requested documents.” Id. at 6(b). Defendant’s request is fairly specific: he has asked for “any and all interview reports used in support of the affidavit of probable cause as well as the actual affidavit of probable cause which resulted in the issuance of the search warrant [for the search] conducted on November 16, 2004, in Mortier’s home.” Dkt. #16. Nevertheless, the motion must be denied. Although defendant filed a 14-page motion and a 51-page brief in support of his motion, he never alleged that his trial counsel gave him ineffective assistance by failing to object to the introduction of evidence obtained as a result of an illegal search of Mortier’s house. His only claim relating to materials from the house was that they were shocking or

unduly emotional and should not have been shown to the jury because the government had never established that they had any connection to the charged conspiracy. Dkt. #2 at 27-28. He did not argue that his counsel should have objected to the legality of the search. It is too late now for defendant to inject an entirely new claim into his motion.

ORDER

IT IS ORDERED that defendant Jacob Stadfield's "motion for subpoena or order to produce documents," dkt. #16, is DENIED.

Entered this 13th day of March, 2014.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge