

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

NATHANIEL SMITH,

Defendant.

ORDER

98-CR-81-C-01

Defendant Nathaniel Smith has filed a document titled “Motion for Inspection and Discovery.” In this document, defendant asks that this court direct the United States to produce for inspection 1) evidence of “the amount, weight and type of drug” alleged in the indictment in his case; 2) “any written or recorded statements” defendant made to the Federal Bureau of Investigation, the Drug Enforcement Agency or individuals in the office of the United States Attorney; 3) witness, co-defendant and confidential informant statements or records provided to the government or its agencies in this case; 4) grand jury minutes relating to plaintiff and his co-defendants; 5) document and records shown to the grand jury; and 6) the names and addresses of all witnesses interviewed by the government in defendant’s case, “including all #302 FBI and DEA statements.”

Defendant contends that he needs these documents in order to prepare “the defense of the defendant or . . . the defendant’s post-conviction proceedings.” However, defendant cannot be preparing a defense to this case. He pleaded guilty to the charges against him in November of 1998 and was sentenced in February of 1999. He has no reason to prepare a postconviction motion; he has filed two motions to vacate his sentence pursuant to 28 U.S.C. § 2255. The first motion was denied on its merits in February 2000, and the second motion was denied in October 2003 because defendant had not obtained permission from the Court of Appeals for the Seventh Circuit to file a second petition. If defendant intends to file a third successive petition under § 2255, he will have to obtain permission from the Court of Appeals for the Seventh Circuit in order to do so. Until he can show this court that he has obtained such permission, it is premature to consider his request for inspection and discovery.

ORDER

IT IS ORDERED that defendant’s “Motion for Inspection and Discovery” is

DENIED without prejudice.

Entered this 27th day of April, 2005.

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