

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,                    )  
  )  
                  Plaintiff,                    )  
  )  
                  v.                            )  
  )  
  )  
FRANK ALVAREZ,                                )  
  )  
  )  
                  Defendant.                    )

Criminal Action No.  
10-00320-16-CR-W-DGK

**REPORT AND RECOMMENDATION**

Before the court is defendant's motion to dismiss for fraud on the court (document number 279). In support defendant attaches copies of docket sheets that have been sent to him. One of the docket sheet includes "(Court only)" entries which defendant claims were illegally inserted.

When the docket sheet marked Exhibit D was printed, it was mistakenly printed as a court-employee copy. Defendant, acting pro se, is not entitled to see the court-only entries; no attorney in the case is entitled to see the court-only entries. Those entries were not added after the fact.

Therefore, it is

RECOMMENDED that the court, after making an independent review of the record and the applicable law, enter an order denying defendant's motion to dismiss the indictment for fraud upon the court.

Counsel and the defendant are advised that, pursuant to 28 U.S.C. § 636(b)(1), each has 14 days from the date of this report and recommendation to file and serve specific objections.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
July 8, 2011