

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action No.
v.)	10-00320-16-CR-W-DGK
)	
FRANK ALVAREZ,)	
)	
Defendant.)	

ORDER

Before the court is defendant's "Congressionally mandated request (The Jencks Act)" which appears to be a motion for production of Jencks material (document number 264).

The Jencks Act, 18 U.S.C. § 3500, requires, upon motion by the defendant, the production of any written statements made by a government witness after the witness has testified on direct examination. United States v. Anwar, 428 F.3d 1102, 1112 n.4 (8th Cir. 2005), cert. denied, 547 U.S. 1072 (2006).

Defendant requests, pursuant to the Jencks Act, "a copy of the complaint against me, copy of affidavit of probable cause, a copy of my arresst [sic] warrent [sic], a copy of all stamped motions filed by defendant in error". First, none of the requested material falls within the Jencks Act. None of this material constitutes a written statement made by a government witness. Second, even if this had been Jencks material, the court could not order production of the material prior to a witness's testimony at trial. Third, defendant has been told numerous times that his case did not begin with a complaint; it began with an indictment, as is required by the United States Constitution. There is no legal requirement that a criminal case begin with a complaint. Fourth, defendant previously filed a motion for a copy of his arrest warrant. That motion was granted, and a copy of the arrest warrant was mailed to defendant on August 22, 2011.

Defendant's request for a copy of "all stamped motions filed by defendant in error" is unclear. I will assume that defendant is referring to himself as the defendant in error. Motions filed by all other defendants have already been mailed to defendant Alvarez at the time of filing. Defendant's request for a copy of all of his own motions will be granted, and copies of those motions will be mailed to defendant along with a copy of this order.

Because of defendant's continued requests for material that does not exist, and the nonsensical nature of his pleadings, I will again encourage defendant to reconsider his decision to represent himself. The right of self-representation is a right that when exercised usually increases the likelihood of a trial outcome unfavorable to the defendant. McKaskle v. Wiggins, 465 U.S. 168, 177 n. 8 (1984).

It is

ORDERED that defendant's request for copies of his own motions is granted. It is further

ORDERED that the remainder of defendant's motion is denied.

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

Kansas City, Missouri
September 16, 2011