

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**CRIMINAL ACTION NO. 3:09-CR-15  
The Honorable John Preston Bailey**

**JAMES PLAISIR,**

Defendant.

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION  
FOR RECONSIDERATION OF SENTENCING TRANSCRIPT**

The above-styled matter is now before this Court for consideration of the defendant's letter entered August 3, 2015, which this Court construes as a Motion for Reconsideration of the Court's Order Denying Defendant's Motion for Sentencing Transcripts [Doc. 84]. In his Motion, the defendant requests his sentencing hearing transcripts in order to "defend himself in a matter concerning his immigration status." See Doc. 91.

As this Court stated in its original denial of Defendant's Motion for Sentencing Transcripts, Defendant has not filed for any post-conviction relief since his initial post-conviction relief was denied. See Doc. 65. Therefore, this Court cannot make a determination as to the validity of claims which have yet to be made or the need for the requested transcript in accordance with such a claim. See 28 U.S.C. § 753; see also *United States v. Brown*, 36 Fed.Appx. 519 (4th Cir. 2002). Therefore, the instant Motion is premature. Defendant has also failed to apprise this Court of any information regarding

his alleged immigration matter. As such, this Court cannot determine whether such a Motion for Transcript is frivolous pursuant to 28 U.S.C. § 753(f).

However, this Court notes that in his initial Motion for Sentencing Transcript, Defendant alluded to another party paying for his sentencing transcript. See Doc. 82 (“ . . . I want to request a copy of my sentence [sic] transcripts and if its possible [sic] for me to sent [sic] someone to pay for it.”). Should Defendant choose to request a copy of his sentencing transcript, Defendant must first send payment of fifty (50) cents per page to the Clerk’s office for said transcript.

After review of the above, this Court is of the opinion that the *pro se* Motion for Reconsideration of the Court’s Order Denying Defendant’s Motion for Sentencing Transcripts [Doc. 91] should be, and the same is, hereby **DENIED WITHOUT PREJUDICE**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and to mail a copy to the defendant.

**DATED:** August 17, 2015.

  
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**JOHN PRESTON BAILEY**  
**UNITED STATES DISTRICT JUDGE**