

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 06-cr-20172

v

Honorable Thomas L. Ludington

ROBERT JAMES OCAMPO,

Defendant.

**ORDER DENYING WITHOUT PREJUDICE MOTION TO COMPEL,
DENYING MOTION FOR EXTENSION AS MOOT, AND DIRECTING
GOVERNMENT TO RESPOND TO MOTION TO CORRECT CLERICAL ERROR**

Defendant Robert James Ocampo is a federal prisoner. After a jury convicted him of seven counts in 2007, Ocampo began a lengthy and tortuous appeals process. Following a number of direct appeals and collateral attacks, on October 13, 2015 Defendant Robert James Ocampo filed a *pro se* motion for retroactive application of the sentencing guidelines to his drug offense under 18 U.S.C. § 3582. On November 18, 2015 Attorney Joan Morgan from the federal defender's office entered an appearance on Ocampo's behalf. *See* ECF No. 573. Attorney Morgan then filed a second motion for retroactive application pursuant to § 3582. *See* ECF No. 593. The Government has conceded that Ocampo is eligible for resentencing, but argues that the Court should exercise its discretion to deny resentencing. *See* ECF No. 594. A motion hearing has accordingly been scheduled for October 18, 2016. *See* ECF No. 599.

I.

In anticipation of the hearing, Ocampo has been moved to the Midland County Jail. On August 23, 2016 Ocampo filed a motion to compel, arguing that the Midland County Jail is

providing him only 1.5 hours of library access per week, and seeking an order requiring the Midland County Jail to provide him up to 12 hours of library access each week. *See* ECF No. 605. Ocampo alleges that he requires the additional time to research and write on numerous matters before this Court and the Court of appeals. As noted above, Ocampo has an attorney representing him with regard to his upcoming October 18, 2016 hearing, and therefore the motion to compel does not relate to matters associated with that hearing.

Ocampo's motion to compel has been filed as part of his 2006 criminal proceeding, of which Midland County is not a party. Ocampo's request for relief is therefore improper as filed, and will be dismissed without prejudice.

II.

On May 31, 2016 Ocampo filed a motion to correct alleged clerical errors in his Pre-Sentence Investigation Report (PSR) and Amended Judgement pursuant to Federal Rule of Criminal Procedure 36. Ocampo argues that while Count 1 of the fourth superseding indictment charges him with a conspiracy under 21 U.S.C. § 846 based on selling, distributing or dispensing controlled substances in violation of § 841(b)(1)(A) and doing so near a school in violation of § 860, the PSR and Amended Judgment do not include language related to § 860 in describing the nature of Count 1. *See* Am. Judgment 2, ECF No. 461. Before the Court reached a determination on this motion, Ocampo filed a motion for an extension of time to respond to or appeal the Court's disposition of his motion. *See* ECF No. 602.

Because there was no disposition of the motion to correct, Ocampo's motion for an extension will be denied as moot. The Government will be directed to respond to his motion for correction of a clerical error.

III.

Accordingly, it is **ORDERED** that Ocampo's motion to compel, ECF No. 605, is **DENIED without prejudice**.

It is further **ORDERED** that Ocampo's motion for an extension, ECF No. 602, is **DENIED as moot**.

It is further **ORDERED** that the Government is **DIRECTED** to respond to Ocampo's motion to correct clerical error, ECF No. 592, on or before **October 14, 2016**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: October 4, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 4, 2016.

s/Kelly Winslow for
Michael A. Sian, Case Manager