

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Marvin Spencer,

Defendant.

Case No. 14-cr-0322 (SRN/TNL)

ORDER

This matter is before the Court on Marvin Spencer's application to proceed *in forma pauperis* ("IFP"). ECF No. 329. Spencer has already been allowed to proceed IFP on appeal. Although it is not entirely clear, Spencer appears to be using his current IFP application as a motion for free copies of documents that he has previously requested from the Clerk's Office. He attaches a letter he received from the Clerk's Office regarding his request for documents (ECF No. 329-1) and states in the IFP application that he has "no income or means to pay for the copies requested in this request for documents." ECF No. 329 at 5.

In his request to the Court, Spencer provides no information as to why he needs the documents he has requested. His direct appeal to the Eighth Circuit Court of Appeals was denied on September 12, 2017. It is possible that Spencer seeks the documents to help him prepare a motion for post-conviction relief under 28 U.S.C. § 2255. He may believe that he is entitled to free copies of court documents to prepare that motion if he is

determined to be indigent. “However, even if a defendant is indigent, and therefore eligible to proceed [IFP], he is not automatically entitled to free copies of court documents for use in post-conviction proceedings.” *U.S. v. Hodge*, 2013 WL 5467301 *1 (D. Minn. 2013) (distinguishing the circumstances when copies will be provided under 28 U.S.C. § 1915(c) and 28 U.S.C. § 753(f) from the defendant’s generalized request). In any event, Spencer has not filed a § 2255 motion and any document request is therefore premature. *See U.S. v. Arechiga*, 2009 WL 4891713 *1 (D.S.D. 2009) (citing *U.S. v. Losing*, 601 F.2d 351, 352 (8th Cir. 1979)). Spencer’s IFP application will therefore be denied as moot and, to the extent he seeks free copies of court documents, that request will be denied without prejudice.

ORDER

Spencer’s IFP application (ECF No. 329) is DENIED as moot. To the extent Spencer seeks to have this Court order that the Clerk’s Office provide him with free copies of documents from his case, that request is DENIED without prejudice.

Dated: April 24, 2018

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge