

**In the United States District Court
for the District of Kansas**

United States of America

v.

Case No. 19-cr-40091-DDC-01

Jarrett William Smith,
Defendant.

**Motion for Defendant's Custodial Access to Electronically Stored
Discovery Data**

Jarrett W. Smith, through undersigned counsel, asks this Court to grant him independent access to electronically stored data that was provided by the government in discovery, as necessary to prepare his defense. Mr. Smith is in custody at CoreCivic-Leavenworth pending trial on charges of distribution of information related to explosives and threatening interstate communication. A status conference is set for November 4, 2019.

Mr. Smith has a right to review the discovery in his case. The discovery consists of documents, reports, photographs, and videos. In his current custodial circumstance, Mr. Smith must meet with his attorneys or investigators to review discovery. The defense is permitted to take in a laptop loaded with discovery, but Mr. Smith is not permitted to use the laptop on his own absent a Court order. The discovery here is voluminous, so it is not feasible to have counsel sit with Mr. Smith at all times for him to review the discovery. As such, Mr. Smith asks the Court to

order his custodians to allow him to have independent access to electronically stored information outside the presence of his defense team, under the conditions below.

The defense has provided CoreCivic with a stripped laptop, as approved by the USAO, with certain programs installed that will allow review of material but no alteration. Once a review session is completed, the computer automatically resets. Mr. Smith understands that he is not to disclose any personal information learned in the course of reviewing discovery, and that he may be held liable for misuse of any such information. Discovery will be provided by counsel to CoreCivic on a password protected flash drive.

We propose an Order to CoreCivic would direct that Mr. Smith have at least six hours of access to the discovery per week. This setup has been successful at CoreCivic, Butler County Jail, and Sedgwick County Jail, and it follows the protocol of the national working group that includes both DOJ and Defender Services.

The defense has asked for the Government's position on this motion; it does not oppose this motion.

For these reasons, Mr. Smith asks this Court to grant this motion and provide for Mr. Smith to have access to the discovery utilizing the procedures described above.

Respectfully submitted,

s/ Rich Federico
Rich Federico, #22111
Assistant Federal Public Defender
117 SW 6th Avenue, Suite 200
Topeka, Kansas 66603-3840
Phone: 785-232-9828
Fax: 785-232-9886
Email: rich_federico@fd.org

Certificate of Service

I hereby certify that on October 7, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all interested parties.

s/ Rich Federico
Rich Federico