

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 06-5016

UNITED STATES OF AMERICA

v.

ANGEL MANUEL PINET
a/k/a Jose

Angel Manuel Pinet,

Appellant

On Appeal From the United States District Court
For the Middle District of Pennsylvania
(D.C. Crim. No. 97-cr-00169-2)
District Judge: Honorable William W. Caldwell

Submitted For Possible Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
May 17, 2007

Before: RENDELL, SMITH AND JORDAN, CIRCUIT JUDGES.

(Filed: June 19, 2007)

OPINION

PER CURIAM

Angel Pinet appeals from the order of the United States District Court for the Middle District of Pennsylvania denying his “Motion for Discovery of Grand Jury Minutes.” We will affirm the judgment of the District Court.¹

Pinet was sentenced to 360 months in prison following his conviction for drug trafficking offenses. We affirmed. Pinet then filed a § 2255 motion. After appointing counsel and conducting an evidentiary hearing, the District Court denied relief on the merits. We denied a certificate of appealability.

In this motion, Pinet states that, despite making Freedom of Information Act requests to two federal agencies, he did not receive the documents he requested. He notes his suspicion that the government presented “perjured testimony” to the grand jury, and he seeks the disclosure of information “relevant to the grand jury” pursuant to Federal Rules of Criminal Procedure 6, 12, and 16. Motion at 1-3. The District Court denied the motion because these rules apply to criminal proceedings, and Pinet has no such proceedings pending before the District Court. Pinet now appeals.

We agree with the District Court that Pinet cannot use Rule 16 as a vehicle to obtain the documents he has not been able to obtain via FOIA requests.² Pinet points to

¹We have jurisdiction under 28 U.S.C. § 1291.

²We note that we also affirmed the District Court’s order denying a similar request made by Pinet in October 2004 for “tape-recorded transcripts and discovery.” See C.A. No. 04-4287.

no authority to the contrary. Although Pinet argues that he needs the grand jury documents “to demonstrate his innocence under § 2241,” the record reveals that he had no habeas petition before the District Court when he filed this motion.

Accordingly, we will affirm the judgment of the District Court.