

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

CAROL ARMSTRONG,

Defendant.

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ORDER

02-C-585-C

00-CR-118-C-03

Defendant Carol Armstrong has filed two documents, one entitled “Amendment and Brief in Support Pursuant to 28 U.S.C. § 2255 Filed” and a notice of appeal. The first document contains additional arguments in support of her § 2255 motion, which I denied in an order entered on November 5, 2002. Nothing in the document requires reconsideration of the November 5 order.

Although defendant’s notice of appeal does not include a request for a certificate of appealability, I construe it as including such a request, because it is a prerequisite for appeal of the denial of defendant’s motion for postconviction relief brought pursuant to 28 U.S.C. § 2255. See 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22. Such a certificate shall issue “only if the applicant has made a substantial showing of the denial of a constitutional right.”

§ 2253(c)(2).

Before issuing a certificate of appealability, a district court must find that the issues the applicant wishes to raise are ones that “are debatable among jurists of reason; that a court *could* resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.” Barefoot v. Estelle, 463 U.S 880, 893 n.4 (1983). I cannot say that the issues defendant wishes to raise are debatable among reasonable jurists or are adequate to deserve encouragement to proceed further. Defendant raised claims that were clearly without merit and, in some cases, based on inaccurate factual allegations. Therefore, I will not issue a certificate of appealability.

Defendant has not asked for leave to proceed on appeal in forma pauperis. However, she had appointed counsel when she was tried here. Pursuant to Fed. R. App. P. 24(a)(3), she may proceed on appeal in forma pauperis without further authorization unless the court certifies that the appeal is not taken in good faith. I am certifying that the appeal is not taken in good faith. Defendant has not explained why she believes the court erred in denying her motion; she is appealing for the mere sake of appealing.

#### ORDER

IT IS ORDERED that defendant Carol Armstrong’s request for a certificate of appealability is DENIED. FURTHER, defendant’s request for leave to proceed in forma

pauperis on appeal is DENIED because I am certifying that her appeal is not taken in good faith.

Entered this 26th day of November, 2002.

BY THE COURT:

BARBARA B. CRABB  
District Judge