

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

STEVEN LARSON,

Defendant.

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ORDER

02-CR-0046-C-04

Defendant Steven Larson has filed a motion pursuant to 18 U.S.C. § 3572 for modification of the fine imposed on him at his sentencing on November 22, 2002. Defendant argues that his sentence should be modified because the court failed to make appropriate findings at his sentencing that he was capable of paying a fine. In addition, he asserts that he has made good faith efforts to pay his fine while he has been incarcerated but that he has little prospect upon release of securing a job that will enable him to pay the remaining amount due on his fine and meet his other obligations and he asks the court to grant him a remission of his fine out of compassion for his situation.

The initial obstacle for defendant is that his fine is a final judgment. 18 U.S.C. § 3572(c)(3). According to § 3572(c)(3), a sentencing court can amend a judgment imposing

a fine only (1) upon motion of the government brought pursuant to 18 U.S.C. § 3573 and only if the government can show that reasonable efforts to collect the fine are not likely to be effective; (2) under Rule 35, if the government brings a motion seeking a reduction in sentence for substantial assistance provided by the defendant; or (3) if the sentence is appealed and modified under 18 U.S.C. § 3742. The government has not moved to remit defendant's fine or to seek a reduction in his sentence as it relates to his fine because he has provided substantial assistance in the prosecution of others and defendant did not pursue an appeal from his sentence. Therefore, his motion must be denied.

Even if I had the authority to amend defendant's sentence to remit the fine, I would not do so at this time. Defendant is still incarcerated. He has had no opportunity to test the employment possibilities that may be available to him upon release. Moreover, his presentence report disclosed that he had an insurance policy with a cash surrender value of \$70,000, which would be more than enough to pay his fine *and* his education loans. Defendant has the means of paying his fine without having to take his meals at a soup kitchen, wear secondhand clothing or ignore his student loan obligations, as he posits.

#### ORDER

IT IS ORDERED that defendant Steven Larson's motion for modification of his fine is DENIED because this court lacks the authority to amend the judgment that includes the

fine.

Entered this 30th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge