

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY PHILLIPS, JR.,

Defendant.

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ORDER

03-CR-0040-C

Although defendant has not filed a formal motion for an evidentiary hearing on his contention that John Smerlinski gave him constitutionally inadequate representation, he did bring the subject up in his brief on the issue of the proper remedy for his second court-appointed counsel's failure to advise him of his right to appeal. Therefore, I will schedule an evidentiary hearing to take place either on February 17 or 18, 2005. Counsel should consult with each other and with the clerk of court to determine the best time on one of those days for an evidentiary hearing in this matter. If counsel cannot be ready by February 17 or 18,

2005, it will be some time before I can schedule an evidentiary hearing in the matter, but I will do so as promptly as the calendar will permit.

Entered this 9th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge