

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY PHILLIPS,

Defendant.

ORDER

03-CR-40-C

Defendant has filed a request for a copy of the indictment, sentencing transcript and “sentencing memorandum/copy of plea bargain,” stating that he wishes to use these documents to challenge his conviction in a motion brought pursuant to 28 U.S.C. § 2255. I am enclosing with this order a copy of the indictment, plea agreement and the court’s docket sheet. As to defendant’s request for a copy of the “sentencing memorandum,” the court is unsure what document defendant is requesting. Defendant can review the enclosed docket sheet and indicate by docket number what additional documents he would like copied. If he requests the court to copy additional documents for him, he will have to pay for them at the indigent rate of \$.10 a page.

As to defendant's request for a copy of the sentencing transcript, I construe the request as a motion for preparation of the sentencing transcript at government expense, pursuant to 28 U.S.C. §753(f), which provides in relevant part:

Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States . . . if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

Defendant has not said what aspect of his conviction he wishes to challenge in his §2255 motion or explained how the sentencing transcript is necessary to decide the issue. Without this information, I cannot certify either that his motion would not be frivolous or that the transcript is necessary. Therefore, his request for preparation of the sentencing transcript at government expense will be denied without prejudice.

ORDER

IT IS ORDERED that defendant's motion for preparation of a sentencing transcript at government expense pursuant to 28 U.S.C. §753(f) is DENIED without prejudice.

Entered this 19th day of April, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge