

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK F. BRUMMITT,

Defendant.

ORDER

04-CR-0127-C

Defendant Mark F. Brummitt has filed an untimely notice of appeal from his judgment and conviction, together with a motion for an enlargement of time in which to move for leave to appeal in forma pauperis. Fed. R. App. P. 4 allows a district court to grant an extension of time for filing a notice of appeal upon a finding of excusable neglect. However, defendant has not asked for an extension of time in which to file the notice of appeal. His request for an extension is limited to the motion for leave to appeal in forma pauperis. As to that request he has not given a very convincing reason for the untimely filing. His only explanation is that defendant “has not been staffed to a state correctional facility, making it difficult to communicate with [him].” I am not sure I understand what defendant’s counsel is saying, but I will provide him an opportunity to file a request for an

extension of time in connection with both his notice of appeal and his motion for leave to appeal in forma pauperis. No good purpose would be served by not doing so; defendant is entitled to an appeal from his sentence as of right.

ORDER

IT IS ORDERED that defendant Mark F. Brummitt may have until March 8, 2005, in which to file a renewed motion for an extension of time for the filing of his notice of appeal and motion for leave to proceed in forma pauperis, setting forth any grounds he may have for a finding of excusable neglect.

Entered this 2nd day of March, 2005.

BY THE COURT:

BARBARA B. CRABB
District Judge