

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN A. RADERMACHER,

Defendant.

ORDER

05-CR-0039-C-01
06-C-0741-C

In an order entered on January 29, 2007, I directed defendant John A. Radermacher to advise the court no later than February 16, 2007, whether he wished to pursue his motion for postconviction relief pursuant to 28 U.S.C. § 2255. On February 21, 2007, when no response had been filed, I dismissed the motion. Later in the same day, after the order had been mailed, I received a response to the January 29, 2007 order in which defendant stated that he wished to pursue his motion. His response indicates that it was put into the mail on January 13, 2007. Under the mailbox rule, it is timely filed.

In his motion, defendant alleged that his trial counsel had either refused or failed to take an appeal from defendant's sentence despite defendant's request that he do so. Defendant has supported his allegation with an affidavit.

ORDER

IT IS ORDERED that plaintiff United States of America may have until March 9, 2007, in which to file and serve a response to defendant's motion; defendant may have until March 23, 2007, in which to file and serve a reply to the motion. Once the briefing is complete, I will determine whether an evidentiary hearing is necessary. If it is, I will appoint counsel for defendant to represent him at the hearing.

Entered this 22d day of February, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge