

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN A. HALE,

Defendant.

ORDER

06-CR-0035-C-01

Defendant Brian A. Hale has written to the court to complain that his court-appointed counsel refused to file an appeal on his behalf, promised him a reduction of sentence under Fed. R. Crim. P. 35(b) and refused to return his legal papers to him or to his family. He asks whether he can file an appeal at this time.

Fed. R. App. P. 4(b) allows the district court to extend the time for filing a notice of appeal “for a period not to exceed 30 days from the expiration of the time otherwise prescribed” by Rule 4(b). Defendant’s judgment and commitment order was docketed by this court on August 15, 2006. His ten-day period for filing would have expired on August 29, 2006 (the ten-day period for filing excludes weekends and holidays); thirty days from August 29 is September 28. Defendant’s letter from the county jail is dated September 21;

it reached the court on September 26, 2006, two days before the expiration of the thirty-day extension period. If the letter is construed as a notice of appeal and request for extension of time under Rule 4(b)(4) in which to file the notice, it would serve as a timely notice of appeal.

Defendant should advise the court promptly if he wants the court to construe his September 21, 2006 letter as a notice of appeal and request for extension of time and whether he wants new counsel appointed to represent him on appeal.

ORDER

IT IS ORDERED that defendant Brian A. Hale is to advise the court in writing no later than October 18, 2006, that he wants to appeal from his conviction and sentence and wants counsel appointed to represent him on appeal. If he does not respond to this order, I will assume that he does not want to appeal.

Entered this 4th day of October, 2006.

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