

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES V. FRAZIER,

Defendant.

ORDER

06-CR-221-C

On November 1, 2007, I sentenced defendant James Frazier to a 360-month term of imprisonment after a jury returned a verdict of guilty as to Counts 1 and 3 contained in the indictment filed against defendant in this case. A judgment and commitment order was entered on November 5, 2007. Now defendant has filed a document that I construe as a notice of appeal from the judgment and motions for appointment of counsel and for preparation of the trial and sentencing transcripts at government expense. Each of the motions will be addressed below.

Defendant did not pay the \$455 fee for filing an appeal. However, according to Fed. R. App. P. 24(a), a defendant who is found eligible for court-appointed counsel in the district court may proceed on appeal in forma pauperis without further authorization “unless the

district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed. . . .” Defendant was found eligible for court-appointed counsel in this case. Indeed, I appointed three separate lawyers to represent defendant, each of whom defendant fired. I do not intend to certify that an appeal from defendant’s conviction and sentence is not taken in good faith or that defendant may not otherwise proceed.

Earlier in these proceedings, defendant asked for a copy of the trial transcript. In an order dated October 11, 2007, I denied the request. However, I advised defendant that if he were to file an appeal from his conviction and sentence, I would direct that transcripts necessary for the appeal be prepared at government expense. Accordingly, I construe defendant’s notice of appeal to include a renewed motion for preparation of the trial transcript and a new request for preparation of the sentencing transcript, both at government expense pursuant to 28 U.S.C. § 753(f). I conclude that without access to the trial and sentencing transcripts, it will be extremely difficult for the court of appeals to assess defendant’s arguments on appeal. Therefore, defendant’s motion for preparation of the trial and sentencing transcripts at government expense pursuant to 28 U.S.C. §753(f) will be granted.

With respect to defendant’s motion for appointment of counsel to represent him on appeal, defendant should file the request directly with the court of appeals. This court lacks

authorization to appoint counsel for appeal.

Finally, because it appears that defendant has not served a copy of his notice of appeal and the motions contained therein on Assistant United States Attorney David Reinhard as he should, I am enclosing a copy of the filing to Mr. Reinhard with a copy of this order.

ORDER

IT IS ORDERED that defendant's request is GRANTED that he be furnished with a transcript of the trial held in this case on August 6 and August 7, 2007, and a transcript of the sentencing hearing held on November 1, 2007. These cost of the transcripts is to be paid by the United States pursuant to 28 U.S.C. § 753(f).

Further, defendant is directed to file his motion for appointment of counsel directly with the Court of Appeals for the Seventh Circuit at 219 South Dearborn St., Chicago, IL, 60604.

Entered this 8th day of November, 2007.

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