

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

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BOBBY MARVIN COLLINS,

Petitioner,

v.

WARDEN RICARDO MARTINEZ,

Respondent.  
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MEMORANDUM

07-C-0130-C

On April 12, 2007, I denied petitioner Bobby Marvin Collins' request for leave to proceed in forma pauperis on appeal from the April 4, 2007 judgment and April 3, 2007, order dismissing his § 2255 motion, after concluding that the appeal was not taken in good faith. Now petitioner has filed an amended notice of appeal in which he challenges this court's April 12 order. As I told petitioner in the April 12 order, if he wants to challenge this court's certification that his appeal is not taken in good faith, his recourse is not to amend his notice of appeal to include an appeal of the April 12 order. Rather, he must follow the procedure set out in Fed. R. App. P. 24(a)(5) which provides,

A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of [the district court's order denying in forma pauperis status]. The motion must include a copy of the affidavit filed

in the district court [under Fed. R. App. P. 24(a)(1)] and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

Because it appears that petitioner's "Amended Notice of Appeal" may be construed as a motion pursuant to Fed. R. App. P. 24(a)(5), I have requested the clerk to forward it to the court of appeals for whatever action it deems appropriate.

Entered this 19th day of April, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge