

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

09-cr-49-bbc

v.

ALFRED SHIPPY,

Defendant.

On March 5, 2015, defendant filed a motion for reconsideration of the sentence imposed on him on September 28, 2009. On March 6, 2015, I denied defendant's motion for lack of jurisdiction. Defendant filed an appeal on March 24, 2015.

According to 28 U.S.C. § 1915(a)(3), "an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." In Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000), the Court of Appeals for the Seventh Circuit ruled that "good faith" was to be read as synonymous with "frivolous," or more precisely, as "not frivolous." In this context, "frivolous" means more than fantastical or loony, as it was in Lee, in which the allegation was that the United States and China were engaged in conspiracy to invade and infect certain people with a mind reading device. It can also refer to a more

straightforward claim like defendant's, which is that the court of appeals should review his sentence because it is excessive. This claim is frivolous, not because it is fantastical, but because it is the same claim that defendant raised unsuccessfully more than five years ago when he appealed from his conviction and sentence. Dkt. #25.

ORDER

IT IS ORDERED that defendant Alfred Shippy's request for leave to proceed in forma pauperis on appeal is DENIED.

Entered this 8th day of July, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge