

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDRE PARSON,

Defendant.

ORDER

09-cr-81-bbc

On January 23, 2012, defendant filed a notice of appeal of the court's December 29, 2011 order denying his motion for modification of his sentence under 18 U.S.C. § 3582. Because his notice of appeal was not accompanied by the \$455.00 filing fee, I construed his notice of appeal as including a request for leave to proceed in forma pauperis on appeal under 28 U.S.C. § 1915. In an order entered on January 30, 2012, I denied his request because I determined that his appeal was not taken in good faith.

In the meantime, on January 25, 2012, the court of appeals entered an order giving defendant until February 8, 2012 in which to file a memorandum stating why his appeal should not be dismissed as untimely as it was not filed within 14 days of the entry of judgment under Fed. R. App. P. Rule 4(b).

In response to that order, defendant has now filed a motion for an extension of time to file his notice of appeal. In support of his motion, he states that he did not receive the court's December 29, 2011 order denying his motion for reconsideration in a timely fashion because the envelope did not state "legal mail" and therefore was delivered to defendant through the general mail service in the prison, which takes longer. His notice of appeal was dated January 17, 2012, and was received by the court on January 23, 2012.

Fed. R. App. P. 4(b)(4) allows a district court to extend the time for filing a notice of appeal upon a finding of excusable neglect or good cause for a period not to exceed 30 days. I find that defendant has shown good cause for granting him an extension of the time to file his notice of appeal.

ORDER

IT IS ORDERED that defendant's motion for an extension of time to file his notice of appeal is GRANTED.

Entered this 7th day of February, 2012.

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