

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

TELLY KINGCADE,

Defendant.

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ORDER

10-cv-349-bbc  
07-cr-142-bbc

On June 28, 2010, defendant Telly Kingcade filed a motion for post conviction relief under 28 U.S.C. § 2555. His motion was denied on September 30, 2010. Defendant appealed the denial to the Court of Appeals for the Seventh Circuit. His appeal is pending. Defendant has now filed a letter in which he states that he has newly discovered evidence concerning misconduct by one of the Madison police officers involved in his case. He asks the court's direction on how to file a motion with this information. I note that defendant has also filed a motion to amend his appeal with the court of appeals on the same ground.

Absent extraordinary circumstances, the district court should not consider any motions while an appeal is pending. United States v. Robinson, 8 F.3d 398 (7th Cir. 1993).

Defendant has not alleged any extraordinary circumstances that require re-consideration of his motion while his appeal is pending. Therefore, I will deny defendant's motion without prejudice because it is premature.

ORDER

IT IS ORDERED that defendant Telly Kingcade's request to file a motion to add newly-discovered evidence is DENIED as premature.

Entered this 4th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge