

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CALVIN BRUCE,

Defendant.

ORDER

11-cv-672-bbc
07-cr-57-bbc

In an order entered on January 30, 2012, I denied defendant Calvin Bruce's motion for post conviction relief under 28 U.S.C. § 2255. In doing so, I neglected to address the issuance of a certificate of appealability under the newly effective amendments to Rule 11 of the Rules Governing Section 2255 Cases in the United States District Courts. Defendant has now filed a request for a certificate of appealability of the January 30, 2012 order as well as the court's March 5, 2012 order denying his motion for reconsideration.

A certificate of appealability shall issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). In order to make this showing, a defendant must "sho[w] that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that

the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893, n.4 (1983)).

Although Rule 11 allows the court to direct the parties to submit arguments on the question of issuing a certificate of appealability, it is unnecessary to do so in this instance. No reasonable jurist would believe that defendant's motion has any merit.

ORDER

IT IS ORDERED that no certificate of appealability will issue in this case.

Entered this 12th day of April, 2012.

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