

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

VINCENT LOWE,

Defendant.

ORDER

11-cv-742-bbc
09-cr-18-bbc

On March 25, 2013, defendant filed a motion to reopen his motion for post conviction relief under 28 U.S.C. § 2255. In orders entered on March 26 and April 16, 2013, I denied his motion. On July 23, 2013, defendant filed a request for a certificate of appealability, which was denied on July 25, 2013.

On July 11, 2013, defendant filed a request for certificate of appealability under Fed. R. App. 22 with the court of appeals. The court of appeals has now forwarded defendant's request to this court for processing as a notice of appeal so that the court of appeals could then consider defendant's motion for a certificate of appealability.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-

appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith. Defendant’s challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

Defendant Vincent Lowe’s motion to proceed in forma pauperis on appeal is GRANTED. A copy of this order will be forwarded to the court of appeals so that it can address the appeal of the denial of the certificate of appealability.

Entered this 12th day of August, 2013.

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