

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

COREY J. THOMAS,

Defendant.  
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ORDER

12-cv-269-bbc

08-cr-87-bbc

Defendant Corey J. Thomas has filed a timely motion for post conviction relief under 28 U.S.C. § 2255 on April 11, 2012, asserting that his trial counsel was constitutionally ineffective in a number of respects, in particular by failing to object to (1) the prosecutor's introduction of evidence that had been suppressed by the court; (2) the introduction of a taped recording of defendant's codefendants, Prince Beck and Michael Simmons; and (3) the Assistant United States Attorney's improper remarks and argument during his closing argument. Defendant contends that his counsel was also ineffective in failing to ask the court for a mistrial based on the prosecution's misconduct. In addition, he alleges that the government coerced one of its witnesses into testifying falsely, used the false testimony knowingly and let it go uncorrected. In a document filed on June 27, 2012, independently of his post conviction motion, defendant asked for a sentence adjustment, arguing that his sentence was miscalculated.

As I have told defendant in previous orders, if the court of appeals agrees with this court that his Rule 33 motion was actually a motion for post conviction relief, he will be unable to pursue his April 11, 2012 motion unless he obtains permission to do so from a panel of the court of appeals. 28 U.S.C. § 2255(h). Therefore, I will stay action on this motion until the court of appeals rules on the Rule 33 motion.

#### ORDER

IT IS ORDERED that defendant Corey J. Thomas's motion for post conviction relief is STAYED, pending resolution of his appeal of the denial of his motion for relief under Rule 33.

Entered this 26th day of July, 2012.

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