IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

ORDER

Plaintiff,

13-cv-499-bbc
06-cr-126-bbc

v.

GERARDO VALTIERRA,

Defendant.

- -

Defendant Gerardo Valtierra has filed a request for leave to reopen in which he asks the court for an extension of time to file his notice of appeal from the September 23, 2013 order denying his motion for post conviction relief under 28 U.S.C. § 2255. I construe defendant's request as motion for extension of time to file a notice of appeal, but must deny it.

A district court may extend the time for filing a notice of appeal upon motion filed no later than 30 days after the expiration of the time prescribed by Fed. R. App. P. 4 and upon the movant's showing of excusable neglect or good cause. Defendant filed his motion on December 17, 2013, which is outside the 30-day period following expiration of the period for filing a notice of appeal. Defendant says he was placed in administrative detention around July 25, 2013 and that during the period he was in that status, he was transferred from U.S.P. Leavenworth to F.C.I. Greenville. He also says that he received this

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court's order while he was in transit. From the information defendant has provided, it seems that his administrative detention ended in October 2013. If so, he should have been able to submit a notice of appeal earlier than December 17, 2013.

At the present time, the information provided by defendant is not sufficient to allow the court to find good cause for defendant's missing the 30-day deadline for filing his notice of appeal or the additional 30-day deadline for filing a request to file a late notice of appeal. Therefore, I will deny defendant's motion, without prejudice for his renewing it if he has additional information to support it.

ORDER

IT IS ORDERED that defendant Gerardo Valtierra's request for leave to file an untimely notice of appeal is DENIED without prejudice.

Entered this 31st day of December, 2013.

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