

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD W. ROBERTSON,

Defendant.

ORDER

10-cr-186-bbc

13-cv-628-bbc

Defendant Bernard W. Robertson has filed a motion for post conviction relief under 28 U.S.C. § 2255, contending that he was denied the effective assistance of counsel when he was charged with conspiracy to possess pseudoephedrine with intent to manufacture it. He lists four ways in which he believes that his counsel was ineffective: (1) he failed to challenge the quantity of pseudoephedrine, although defendant believes he could have shown that information on that point in the presentence report was not truthful; (2) he failed to challenge the truthfulness of testimony provided to the grand jury; (3) he did not obtain any records or statements from defendant's former employers to refute the probation officer's claims that defendant's only income came from dealing methamphetamine; and (4) he did not provide any good character information that his investigator had discovered, including his good history of employment, his work ethic, his standing in the community and his good qualities as a father.

Defendant's motion is timely. It was filed well within a year of the time in which his conviction became final, which would have been 90 days after his appeal was dismissed by the Court of Appeals for the Seventh Circuit on November 19, 2012. Clay v. United States, 537 U.S. 522, 529-30 (2003) (in § 2255 proceeding, the "one year after the date on which the judgment of conviction becomes final" includes 90-day period for filing petition for writ of certiorari even if defendant chooses not to file one). Accordingly, I will order the government to respond to the motion.

ORDER

IT IS ORDERED that plaintiff United States of America may have until October 1, 2013 in which to respond to defendant's motion for post conviction relief; defendant may have until October 22, 2013 in which to file a reply.

Entered this 10th day of September, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge