

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN J. BIESE,

Defendant.

ORDER

13-cv-64-bbc

02-cr-100-bbc

Defendant Benjamin J. Biese has filed a “motion for docket items,” dkt. #11, in which he asks for particular documents and transcripts from the file in his criminal case (02-cr-100-bbc). The motion will be denied at this time because defendant has not yet shown that he will need the items he is requesting. He filed a motion for post conviction relief under 28 U.S.C. § 2255, but it is untimely unless he can show that he has newly discovered evidence he could not have obtained any earlier than one year before he filed his motion. I have given him an extension of time until April 17, 2013, in which to file affidavits in support of his claim of newly discovered evidence. Until he has submitted the necessary affidavits and shown the court that he is entitled to file his otherwise untimely motion for post conviction relief, he has no reason to gain access to the documents and transcripts he is seeking from his criminal case file.

If defendant succeeds in showing that he is entitled to proceed on his motion for post

conviction relief, he may renew this motion.

ORDER

IT IS ORDERED that defendant Benjamin J. Biese's motion for docket items, dkt.
11, is DENIED as premature.

Entered this 26th day of February, 2013.

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