

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN BIESE,

Defendant.

ORDER

13-cv-64-bbc

02-cr-100-bbc

On January 25, 2013, defendant Benjamin Biese filed a post conviction motion under 28 U.S.C. § 2255, contending that he was denied the effective assistance of counsel. Because defendant's motion was filed after the one-year period of limitations, I gave him the opportunity to supplement his motion to explain why his motion should not be denied as untimely. Thereafter, defendant filed three motions for extension of time to provide the supplemental materials. His last extension gave him until July 31, 2013 to file his supplemental materials.

Now, defendant has now filed a motion to withdraw his § 2255 motion. He says that his family was unable to hire counsel for him, that he thinks the court would not grant him leave to proceed if he filed 50 affidavits, he is facing new charges in state court that are

preoccupying his time and he has exceeded his legal loan limit. Although defendant does not need counsel because he has demonstrated his ability to file coherent, relevant submissions and the question of the timeliness is not a closed question, I can understand why defendant might choose to concentrate his time and attention to his new charges. Accordingly, I will grant his motion to withdraw his post conviction motion.

ORDER

IT IS ORDERED that defendant Benjamin Biese's motion for post conviction relief under 28 U.S.C. § 2255 is considered withdrawn. The clerk of court is to close this case.

Entered this 8th day of July, 2013.

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