

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

13-cr-34-bbc

v.

OMAR GARCIA-OLASCUAGA,

Defendant.

Defendant Omar Garcia-Olascuaga has filed a motion to amend his sentence to correct a clerical error, dkt. #26, and a motion for copies of documents and transcripts. He seeks credit toward his federal sentence for the time he served between his release from state custody and the date the federal indictment was returned.

Defendant was sentenced in this court on July 18, 2013, following his conviction for illegal reentry in violation of 8 U.S.C. § 1326. He was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 11 months with no term of supervised release to follow.

A review of defendant's motion shows that he is not complaining about a clerical

error. Instead, he is seeking credit toward his federal sentence for time served in federal custody before he was formally indicted.

18 U.S.C. § 3586(b) authorizes the Attorney General to credit an offender for time spent in official detention prior to the date the sentence begins. United States v. Wilson, 503 U.S. 3209 (1992). Defendant should consult his case manager to determine whether he has received sentence credit for all of the time he has spent in federal custody. This court lacks authority to credit him with this time.

In his second motion filed with the court, defendant asks for a copy of the entire record and transcripts in his case. Attached to this order is a copy of defendant's docket sheet for him to review and indicate by docket number what documents he would like copied. He may submit his request to the clerk of court, who will inform him of the total for copying charges at the indigent rate of \$.10 a page.

As to defendant's requests for a copy of all his transcripts, I construe the request as a motion for preparation of the transcripts at government expense, pursuant to 28 U.S.C. §753(f), which provides in relevant part:

Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States . . . if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

Defendant has not said what aspect of his conviction he wishes to challenge or explained how the transcripts are necessary to decide the issue. Without information as to why defendant needs the transcripts, I cannot certify either that his motion would not be

frivolous or that the transcripts are necessary. Therefore, his request for preparation of the transcripts at government expense will be denied without prejudice. He may renew the motion at any time, explaining exactly why he needs the transcripts to support his motion and what issues he intends to raise.

ORDER

IT IS ORDERED that defendant Omar Garcia-Olascuaga's motion to amend his sentence to correct a clerical error is DENIED for his failure to identify an error in need of correction.

FURTHER, IT IS ORDERED that defendant Omar Garcia-Olascuaga's motion for preparation of transcripts at government expense pursuant to 28 U.S.C. §753(f) is DENIED without prejudice.

Entered this 6th day of December, 2013.

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