

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCOTT BODLEY,

Defendant.

ORDER

13-cr-52-bbc

Defendant Scott Bodley has filed motions to compel production of grand jury material, dkt. #228, for production of the complete record on appeal, dkt. #227, and to compel the clerk of court to provide the certified and complete appellate record, dkt. #229. Defendant's motions are the same as the ones he filed on December 15, 2015 (dkt. ## 217 and 218) and on December 22, 2015 (dkt. #220). I denied defendant's motions in an order entered on December 23, 2015 (#dkt. 222). Thereafter, on January 4, 2016, defendant filed a motion for reconsideration of the December 23, 2015 order which was denied in a text order entered on January 6, 2016 (dkt. 225).

Defendant has also now filed a notice of appeal of the court's January 6, 2016 denial of defendant's motion for reconsideration.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma

pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." I must certify that petitioner's appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3). I denied defendant's motion for reconsideration because defendant is represented by counsel and must let counsel make any requests to the court on defendant's behalf. Second, the Court of Appeals for the Seventh Circuit was advised by defendant's appellate counsel that he has all the materials he needs for defendant's appeal of his conviction and sentence. I am convinced that reasonable jurists would not debate the conclusions I reached. Because I am certifying petitioner's appeal as not having been taken in good faith, he cannot proceed with his appeal without prepaying the \$505 filing fee unless the court of appeals gives him permission to do so. Under Fed. R. App. P. 24, petitioner has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of his request for leave to proceed in forma pauperis on appeal. With his motion, he must include an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), with a statement of issues he intends to argue on appeal. Also, he must send along a copy of this order. Petitioner should be aware that he must file these documents in addition to the notice of appeal he has filed previously. If petitioner does not file a motion requesting review of this order, the court of appeals might not address the denial of leave to proceed. Instead, it may require petition to pay the entire \$505 filing fee before it considers his appeal. If petitioner fails to pay the fee within the deadline set, it is possible that the court of appeals will dismiss the appeal.

ORDER

IT IS ORDERED that defendant Scott Bodley's motions to compel production of grand jury material, dkt. #228, for production of the complete record on appeal, dkt. #227, and to compel the clerk of court to provide the certified and complete appellate record, dkt. #229, are DENIED as duplicative. His request leave to proceed in forma pauperis on appeal is DENIED because I certify that his appeal is not taken in good faith. If petitioner wishes to appeal this decision, he must follow the procedure set out in Fed. R. App. P. 24(a)(5). The clerk of court is requested to insure that petitioner's obligation to pay the \$505 filing fee for the appeal is reflected in this court's financial records.

Entered this 1st day of February, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge