

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

GORDON O. HOFF, SR.,

Defendant.

MEMORANDUM

99-C-0582-C

96-CR-0010-C-01

On January 13, 2006, defendant filed a “Brief in Support of Petitioner’s Subsequent U.S.C. § 2255 Motion.” Defendant’s brief is a duplicate of the one he filed with the court on May 2, 2005 but which was placed in the file because defendant had an appeal pending before the court of appeals. Now the court of appeals has affirmed the district court’s denial of defendant’s § 2255 motion. In the newly-filed brief defendant argues that this court should give a liberal construction to the concept of successive petitions and should hear his petition because the earlier petition was not heard on the merits. Defendant’s first § 2255 motion was decided on the merits in a 19-page order in January 2000. It was not dismissed as premature or because defendant had failed to exhaust his available remedies. Therefore,

this court cannot hear any successive motion filed by defendant unless and until he obtains certification by a panel of the Court of Appeals for the Seventh Circuit.

Because defendant has not received permission to file a successive petition in this court, his brief is premature. Therefore, it will be placed in the court's file and no further consideration will be given to it.

Entered this 30th day of January, 2006.

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