

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

GORDON O. HOFF, SR.,

Defendant.

ORDER

99-C-0582-C

96-CR-0010-C-01

On May 2, 2005, defendant filed a “Brief in Support of Petitioner’s 28 U.S.C. § 2255 Motion” in which he 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 brief was filed after defendant had filed a notice of appeal from the April 6, 2005 order dismissing his Rule 60(b) motion on the ground that it is a successive motion attacking his sentence that requires pre-filing certification from the Court of Appeals for the Seventh Circuit.

The filing of a notice of appeal deprives the district court of jurisdiction over the case. Therefore, I cannot give any consideration to defendant’s brief. I will note however that the

brief seems to be proceeding on a false premise. 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.

ORDER

IT IS ORDERED that defendant's recently-filed brief will be placed in his file but will not be considered.

Entered this 5th day of May, 2005.

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