

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODNEY RAINES,

Defendant.

ORDER

01-cr-9-bbc

In an order entered on February 9, 2012, I denied defendant Rodney Raines's motion under 18 U.S.C. § 3582. Defendant has filed a notice of appeal and a motion to proceed on appeal in forma pauperis,

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." Defendant had court-appointed counsel during the criminal proceedings against him. Therefore, he can proceed in forma pauperis on appeal unless I find that his appeal is taken in bad faith. In this case a reasonable person could not suppose that the appeal has some

merit, as is required in order for the appeal to be taken in good faith. As I explained in the February 9, 2012 order, defendant is not eligible for a sentence reduction under § 3582 because the recent amendment to the cocaine base guidelines does not reduce the offense level for crimes involving 8.4 kilograms or more of cocaine base. At sentencing, defendant's relevant conduct was found to include 30 kilograms or more; his offense level is not reduced under the new amendment.

Under Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by (1) an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and (2) a copy of this order.

ORDER

IT IS ORDERED that defendant Rodney Raines's request for leave to proceed in forma pauperis on appeal is DENIED. I certify that defendant's appeal is not taken in good

faith. Defendant has the right to appeal this order certifying his appeal as not taken in good faith.

Entered this 1st day of March, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge