

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

RONNIE RAINES,

Defendant.

MEMORANDUM

01-CR-0009-C-04

Before the court is defendant Ronnie Raines's "Motion To Ascertain 2255 Motion Due Date" wherein he requests that the court calculate the deadline for filing his § 2255 motion.

Under § 2255, the applicable deadline runs from the date on which the judgment of conviction became final. Case law has interpreted the "date on which the judgment of conviction became final" as including appeal time. Defendant has one year from the date on which the court of appeals issued its judgment (April 10, 2003), plus the 90-day period in which he could have filed a petition for a writ of certiorari, if he did not file such a petition. Clay v. United States, 537 U.S. 522, 529-30 (2003). If he did, then the time would start running on the day after the Supreme Court denied the petition.

Because defendant did not file a petition for writ of certiorari, his § 2255 motion must be filed no later than July 9, 2004, which is one year and 90 days from April 10, 2003.

Entered this 5th day of May, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge