

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK J. WRIGHT,

Defendant.

ORDER

03-C-0709-C

00-CR-0098-C-02

Defendant Mark J. Wright has advised the court that it should construe his motions under the All Writs Act, the Administrative Procedure Act, the Citizens Protection Act and the Jencks Act as a motion for vacation or modification of his sentence filed pursuant to 28 U.S.C. § 2255. He adds that he wants the court to allow an addendum. His request will be granted but defendant should be aware that if he intends to add new claims in his proposed “addendum,” he must do so before the deadline for filing a § 2255 motion has passed. 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 (February 3, 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.

ORDER

Defendant's request to construe his previously filed motions as a motion brought pursuant to 28 U.S.C. § 2255 is GRANTED, as is his request to file an addendum, provided that the addendum is filed before the deadline for filing a § 2255 motion has passed.

Entered this 6th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge