

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIFTON WRIGHT,

Defendant.

ORDER

03-CR-0084-C-01

Defendant Clifton Wright has filed a motion for a ninety-day extension of time in which to file a § 2255 motion and a request under 28 U.S.C. § 753(f) for preparation of transcripts at government expense.

As to defendant's motion for an extension of time, it is not clear that courts have the authority to grant extensions of time from the statutory one-year filing period. In theory at least, § 2255 is subject to equitable tolling. United States v. Marcello, 212 F.3d 1005, 1010 (7th Cir. 2000) ("Although the cases have not been as clear as they might have been, a close reading shows that we have consistently held that "2255's period of limitation is not jurisdictional but is instead a procedural statute of limitations subject to equitable tolling.") (citing Taliani v. Chrans, 189 F.3d 597 (7th Cir.1999)). However, "[e]quitable tolling of

the statute of limitations is such exceptional relief that “we have yet to identify a circumstance that justifies equitable tolling in the collateral relief context.” Modrowski v. Mote, 322 F.3d 965, 967 (7th Cir. 2003) (citing Lloyd v. VanNatta, 296 F.3d 630, 633 (7th Cir. 2002)). Moreover, the possibility that a defendant could obtain relief after a deadline has run does not mean that he could obtain prospective relief from the deadline simply because he fears he might not be able to prepare a motion before the deadline has run. Therefore, defendant’s motion for an extension of time to file a § 2255 motion will be denied.

Defendant’s motion for preparation of transcripts pursuant to 28 U.S.C. § 753(f) is the second such motion that defendant has filed. In this court’s January 10, 2005 order, I denied defendant’s first motion without prejudice to his informing the court what aspect of his conviction he wished to challenge in his § 2255 motion and how the transcripts and documents he requests are necessary to decide the issue. Defendant has not provided the court with the information that it needs to certify that his motion would not be frivolous or that the transcripts and documents are necessary.

ORDER

IT IS ORDERED that defendant Clifton Wright’s motion for an extension of time in which to file a motion pursuant to 28 U.S.C. § 2255 is DENIED.

IT IS FURTHER ORDERED that defendant Clifton Wright's second motion for preparation of transcripts at government expense is DENIED without prejudice.

Entered this 16th day of May, 2005.

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