

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

LARRY D. KALLEMBACH,

Defendant.

ORDER

03-CR-0037-C

On August 19, 2004, I entered an order finding defendant Larry D. Kallembach in contempt of court and tolling his federal sentence. The contempt finding was based on defendant's refusal to sell his non-exempt real property to satisfy the fine imposed upon him in this case and his refusal to disclose his current assets or liabilities by completing a financial statement as directed.

In compliance with the directive in United States v. Lippitt, 180 F.3d 873, 879 (7th Cir. 1999), I have re-evaluated defendant's incarceration. I find no reason to rescind the contempt order at this time. Defendant remains capable of purging his contempt and obtaining his release by completing the financial report he has been ordered to provide to the government and by making good faith efforts to sell his non-exempt real property. He

has made no effort in either respect. At the same time, there is no evidence that his financial condition has changed so that he would be unable to pay the fine imposed him. Moreover, he continues to file fictitious legal documents with the court instead of complying with the court's order.

I am persuaded that there remains a reasonable probability that defendant Kallembach will eventually comply with this court's order. He has served only four months at this point. It is far too early to conclude that the contempt order has lost its coercive effect and has become punitive. Furthermore, there is no good evidence that defendant will never comply with the court's order.

Therefore, IT IS ORDERED that the contempt order entered on August 19, 2004, remains in effect.

Entered this 29th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge