

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID DRONE,

Defendant.  
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ORDER

03-CR-89-C-01

In an order entered herein on August 12, 2003, United States Magistrate Judge Joseph Skupniewitz found that defendant was eligible for appointment of counsel under the Criminal Justice Act. Judgment was entered on January 15, 2004, and a timely notice of appeal from the judgment and commitment was filed on January 26, 2004. Defendant now requests an order “waiving the filing fee and the appellate docket fee for the appeal,” which I construe as a motion for leave to proceed in forma pauperis on appeal.

Pursuant to Fed. R. App. P. 24(a)(3),

A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court . . . certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding . . . .

I presume defendant is appealing from his sentence and this court's order denying his motion to withdraw his plea. I cannot find that he is not entitled to proceed in forma pauperis and I do not intend to certify that an appeal from these matters would be taken in bad faith.

Defendant has not requested that a copy of the transcript of the sentencing be produced and sent to the court of appeals for its consideration in connection with his appeal. However, without access to a transcript, it will be impossible for the court of appeals to assess defendant's arguments on appeal. Therefore, it appears to be in the interest of justice to construe defendant's notice of appeal to include a motion for preparation of the transcript of sentencing at government expense pursuant to 28 U.S.C. §753(f), and to grant that motion.

#### ORDER

IT IS ORDERED that a transcript of the sentencing proceedings in this case be prepared and furnished to the defendant, with the fees therefor to be paid by the United States pursuant to 28 U.S.C. §753(f).

I cannot certify that defendant's appeal is taken in bad faith or find that he is otherwise not entitled to proceed in forma pauperis.

Entered this 3rd day of February, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge