

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

DUNCAN J. McNEIL, III,

Petitioner,

v.

UNITED STATES AND ITS
OFFICERS AND AGENCIES;
CLERK, U.S. DISTRICT COURT,
W.D. WI; CLERK, U.S. BANKRUPTCY
COURT, W.D. WI; U.S. ATTORNEY,
W.D. WI; OFFICE OF U.S. TRUSTEE,
W.D. WI; U.S. MARSHAL SERVICE,
W.D. WI; FBI, W.D. WI; IRS, W.D. WI;
SECRET SERVICE, W.D. WI; and their
officers,

Respondents.

MEMORANDUM

05-C-400-C

Petitioner Duncan McNeil, III has filed a document titled “Amended Notice of Appeal” in which he challenges this court’s November 2, 2005 decision to deny him leave to proceed in forma pauperis on appeal because of his three-strike status. If petitioner wishes to challenge this court’s November 2 decision, his recourse is not to amend his notice of appeal to include an appeal of the November 2 order. Rather, he must follow the

procedure set out in Fed. R. App. P. 24(a)(5) which provides,

A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of [the district court's order denying in forma pauperis status]. The motion must include a copy of the affidavit filed in the district court [under Fed. R. App. P. 24(a)(1)] and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

Because it appears that plaintiff's "Amended Notice of Appeal" may be construed as a motion pursuant to Fed. R. App. P. 24(a)(5), I have requested the clerk to forward it to the court of appeals for whatever action it deems appropriate.

Entered this 23rd day of November, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge