

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN A. RADERMACHER,

Defendant.

ORDER

06-C-0741-C

05-CR-0039-C-01

In response to this court's order of March 29, 2007, defendant John A. Radermacher has submitted an affidavit in which he sets out the information that he alleges that his trial counsel could have obtained had he made the necessary effort. This includes the opinions of defendant's aunt, Donna Lasuier, who believes that the pressures on the Lac Courte Oreilles reservation influence young men and women to engage in criminal activity and that the specific pressures on defendant because of his mother's illness and inability to support her family led him to sell drugs. Defendant says that his aunt would have testified that had it not been for his mother's illness, defendant might not have taken the road he took. She would have said also that before he was indicted, defendant had secured employment and

was trying to straighten out his life.

Defendant avers that his gym teacher, Deon Doyle, would have testified that he was aware of defendant's involvement in gang activity but that he appeared to be turning his life around by taking an interest in helping the youth at the reservation in school athletic programs such as wrestling and boxing. He avers that counsel could have called Stanley Quagon, who had hired defendant to work at Four Season construction, but defendant does not say what Quagon would have said if called as a witness.

According to defendant, his trial counsel could have interviewed defendant's grade school teacher, who, he says, would have offered extensive background information about defendant from the age of 5 until the present. As with Quagon, however, defendant does not explain exactly what it is his teacher would have said on his behalf.

Unfortunately for defendant, he has failed to show that his trial counsel was ineffective in failing to interview defendant's family members and acquaintances. At most, defendant has shown that his aunt and his gym teacher could have testified to defendant's efforts to turn his life around and the reasons for his succumbing to the lure of gang activity and drug dealing. He has not shown that testimony of this kind would have had any possibility of reducing his sentence. Sadly enough, many people in defendant's position have similar stories to tell of privation and financial need and many, like defendant, have shown some signs of starting to turn their lives around. In some cases, such testimony might be

reason to depart downward. In this case, however, it would not have been. Defendant's criminal conduct was too extensive, too long-lasting, too deleterious to his community and too threatening to others to be outweighed by one person's belief that defendant turned to drugs only because his mother was ill or by the possibilities that he was beginning to change his ways at long last.

I can say categorically that I would not have given defendant a downward departure on the basis of the information he has referred to in his affidavit. It would have been futile for his trial counsel to spend time interviewing witnesses that could have testified to no more than the information defendant has identified in his affidavit.

ORDER

IT IS ORDERED that defendant John A. Radermacher's motion for postconviction relief is DISMISSED as to defendant's claim that his attorney was ineffective in failing to interview family members and teachers to obtain facts in mitigation of his sentence. The evidentiary hearing set for May 24, 2007, will go forward only on the issue of attorney

ineffectiveness in failing to pursue an appeal.

Entered this 30th day of April, 2007.

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