

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARDO GARCIA,

Defendant.

ORDER

05-cr-155-bbc

Defendant Bernardo Garcia has filed a motion for appointment of counsel in which he requests that Patrick Stangl be appointed to represent him in a motion for modification of his sentence based upon the Supreme Court's recent decision in United States v. Jones, 132 S. Ct. 945 (2012). In Jones, the Court concluded that a warrant is required to use a GPS device on a vehicle to track a suspect, even though the suspect's movement is public and could be detected by visual surveillance. Defendant believes that the Supreme Court decision may apply to his case.

Defendant's motion will be denied. Because defendant's conviction preceded the Supreme Court's decision in Jones, the decision does not apply to his case unless it is made retroactive. That determination has not yet been made. If in the future the Supreme Court

rules that the change in the law is intended to have retroactive effect, defendant can renew his motion for appointment of counsel at that time.

ORDER

Defendant Bernardo Garcia's motion for appointment of counsel is DENIED without prejudice.

Entered this 6th day of April, 2012.

BY THE COURT:

/s/
BARBARA B. CRABB
District Judge