

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDRE FISHER,

Defendant.

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ORDER

06-cr-56-bbc

On January 17, 2012, defendant filed a notice of appeal of the court's December 30, 2011 order denying his motion for a sentence reduction under 28 U.S.C. § 3582. Because defendant's notice was not accompanied by the \$455 fee for filing his notice of appeal, I construed his notice as including a request for leave to proceed in forma pauperis on appeal under 28 U.S.C. § 1915. In an order entered on January 20, 2012, I denied defendant's request because I found that his appeal was not taken in good faith. In the meantime, on January 18, 2012, the court of appeals entered an order giving defendant until February 1, 2012, in which to file a memorandum stating why his appeal should not be dismissed as untimely as it was not filed within 14 days of the entry of judgment under Fed. R. App. P. Rule 4(b). In response to that order, defendant has now filed a motion for clarification

which I construe as a motion for an extension of time to file his notice of appeal. His notice of appeal was dated January 9, 2012 and was received by the court on January 17, 2012. Defendant has not given the court any additional information as to why his appeal was not timely filed. I will give him one more opportunity to do so. Defendant may have until February 20, 2012 in which to file a notarized statement setting forth the date defendant received the December 30, 2011 order and when he deposited his notice of appeal in the prison mail system.

ORDER

IT IS ORDERED that defendant will have until February 20, 2012 in which to file an affidavit explaining why his notice of appeal should be deemed timely.

Entered this 3d day of February, 2012.

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