

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN HIGH,

Defendant.

ORDER

07-cr-91-bbc

Defendant John High has filed a motion for extension of time in which to file a motion for post conviction relief under 28 U.S.C. § 2255. On November 20, 2007, a jury found defendant guilty of one count of felon in possession of a firearm. He was sentenced on April 9, 2008 to an imprisonment term of 212 months. He appealed his sentence to the court of appeals. On August 5, 2009 the court of appeals affirmed defendant's conviction but remanded the case with instructions to impose a sentence no greater than 120 months. Defendant was resentenced on November 10, 2009 to a term of 120 months. Defendant appealed and his appeal was dismissed on June 9, 2010. Defendant did not file a petition for writ of certiorari with the Supreme Court. Under § 2255, defendant had one year from the date on which "the judgment of conviction [became] final" in which to bring a post

conviction motion. The conviction would have become final 90 days after June 9, 2010, or September 7, 2010. Clay v. United States, 537 U.S. 529-30 (2003) (one-year statute of limitations does not begin to run until 90 days after time for filing petition for writ of certiorari has expired, even if defendant does not file such petition). Therefore, defendant has one year from September 7, 2010 or September 7, 2011 in which to file his § 2255 motion.

In his motion, defendant states that he has been unable to complete his § 2255 motion because the prison has been on lock down several times. Defendant still has over two months in which to complete his § 2255 motion. If he works diligently, he should be ready to file it before September 7, 2011.

ORDER

IT IS ORDERED that defendant John High's motion for an extension of time in which to file a motion pursuant to 28 U.S.C. § 2255 is DENIED without prejudice.

Entered this 15th day of June, 2011.

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

