

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARCUS KILGORE,

Defendant.

ORDER

08-cr-38-bbc

The probation office has advised the court that defendant Marcus Kilgore is serving two state sentences and not just the one I considered in the sentencing on January 9, 2009. Leaving the second sentence unaddressed will lead inevitably to complication for both the state and the Bureau of Prisons in determining how the sentences should be served.

It is not possible simply to rescind the sentence imposed on January 9, 2009. The only way the sentencing issue can be addressed is if defendant files a motion for post conviction relief under 28 U.S.C. § 2255, showing that the sentence was imposed

erroneously because it did not take into consideration both state sentences.

Entered this 16th day of January, 2009.

BY THE COURT:

Barbara B. Crabb

BARBARA B. CRABB
District Judge