

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

REED ROGALA,

Defendant.  
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ORDER

08-cr-84-bbc

On December 5, 2011, defendant filed a notice of appeal of (1) the court's July 26, 2011 order denying his motion for correction of clerical errors under Fed. R. Crim. P. 36 and (2) the November 4, 2011 order denying his motion for reconsideration. Because his notice of appeal was not accompanied by the \$455.00 filing fee and because defendant had retained counsel at trial, I gave him until January 6, 2012 in which to provide the court an affidavit of indigency so that I could determine his financial eligibility to proceed in forma pauperis on appeal.

In the meantime, on December 6, 2011, the court of appeals entered an order giving defendant until December 20, 2011 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 an extension of time to file his notice of appeal. In support of his motion, he states that he did not receive the court's November 4, 2011 order denying his motion for reconsideration until November 21, 2011 because the envelope did not state "legal mail" and therefore was delivered to defendant through the general mail service in the prison, which takes longer. His notice of appeal was dated November 28, 2011 and was received by the court on December 5, 2011.

Fed. R. App. P. 4(b)(4) allows a district court to extend the time for filing a notice of appeal upon a finding of excusable neglect or good cause for a period not to exceed 30 days. I find that defendant has shown good cause for granting him an extension of the time to file his notice of appeal.

#### ORDER

IT IS ORDERED that defendant's motion for an extension of time to file his notice of appeal is GRANTED.

FURTHER IT IS ORDERED that defendant is to file an affidavit of indigency by January 26, 2012 so that the court can determine whether defendant is entitled to proceed

in forma pauperis on appeal.

Entered this 6th day of January, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge