

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEROME G. HUGHES,

Defendant.

ORDER

07-cr-33-bbc

10-cv-570-bbc

In an order entered on October 7, 2010, I denied defendant Jerome Hughes's motion for post conviction relief under 28 U.S.C. § 2255. Now defendant has filed a notice of appeal and a request for a certificate of appealability from the denial of his § 2255 motion. He has not paid the \$455 fee for filing his notice of appeal which is required if he is to take an appeal from the denial of a § 2255 motion. 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22. Therefore, I construe defendant's notice as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915. According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the

party is otherwise not entitled so to proceed. . . .” Defendant was found eligible for court-appointed counsel and I am not prepared to certify that his appeal is not taken in good faith. A reasonable person could find that the appeal has some merit.

As to the issue of a certificate of appealability, I denied the issuance of such a certificate on October 7, 2010, finding that no reasonable jurist would believe that defendant’s motion has any merit. It is not necessary to address that issue again.

ORDER

IT IS ORDERED that defendant Jerome Hughes’s motion to proceed on appeal in forma pauperis on appeal is GRANTED. His request for a certificate of appealability is DENIED.

Entered this 18th day of November, 2010.

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