

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

10-cv-629-bbc

v.

DANIEL TEPOEL,

Defendant.

In an order entered on December 13, 2010, I denied defendant Daniel Tepoel's motion for post conviction relief under 28 U.S.C. § 2255. On December 23, 2010, defendant filed a timely notice of appeal and a request for a certificate of appealability from the denial of his § 2255 motion. In an order dated December 27, 2010, I granted defendant's request to proceed on appeal in forma pauperis and denied his request for a certificate of appealability. On January 6, 2011, the clerk of court certified and transmitted the record to the court of appeals.

Now defendant has filed a motion to withdraw his notice of appeal because he does not have the money to pay the filing fee. Unfortunately for defendant, his motion comes too

late. In the December 27, 2010 order, I granted his motion to proceed on appeal in forma pauperis and the record has already been forwarded to the court of appeals. Defendant can withdraw his appeal but he will still be responsible for the payment of the filing fee. Defendant can ask the court of appeals to allow him to withdraw his notice of appeal.

ORDER

IT IS ORDERED that defendant Daniel Tepoel's motion to withdraw his notice of appeal is DENIED.

Entered this 24th day of January, 2011.

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