

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

MICAH W. RICHARDSON,

Defendant.

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ORDER

08-cr-149-bbc

11-cv-451-bbc

Defendant Micah Richardson has filed a notice of appeal and a request for a certificate of appealability from the August 26, 2011 order denying his post conviction motion under 28 U.S.C. § 2255.

Defendant's notice of appeal was not accompanied by the \$455 fee for filing an appeal. 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22. Therefore, I construe it 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

had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith. Defendant's challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

As to defendant's request for a certificate of appealability, such a certificate was denied in the August 26, 2011 order.

ORDER

IT IS ORDERED that defendant Micah Richardson's request for leave to proceed in forma pauperis on appeal is GRANTED. His request for a certificate of appealability was previously denied in the August 26, 2011 order.

Entered this 7th day of September, 2011.

BY THE COURT:

/s/  
BARBARA B. CRABB  
District Judge