

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

TIMOTHY ROBINSON,

Defendant.

ORDER

11-cv-459-bbc
08-cr-152-bbc

On September 13, 2011 defendant filed a post conviction motion under 28 U.S.C. § 2255, alleging that his counsel was ineffective. In an order entered on September 22, 2011 the court denied defendant's motion and determined that no certificate of appealability would issue.

On September 30, 2011, defendant filed a motion for reconsideration of the court's September 22, 2011 order. That motion was denied on November 9, 2011. A year and a half later, on June 7, 2013, defendant filed a motion to reopen his § 2255. The court construed his motion as a successive petition under § 2255, and denied it for lack of jurisdiction.

Defendant has now filed a request for certificate of appealability with the Court of Appeals for the Seventh Circuit. The Court of Appeals has forwarded defendant's request to this court for processing as a notice of appeal so that the court of appeals can consider defendant's motion for a certificate of appealability.

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).

ORDER

Defendant Timothy Robinson's motion to proceed in forma pauperis on appeal is GRANTED. A copy of this order will be forwarded to the court of appeals so that it can

address the appeal of the denial of the certificate of appealability.

Entered this 12th day of August, 2013.

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