

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

COREY THOMAS,

Defendant.

ORDER

12-cv-269-bbc

08-cr-87-bbc

Defendant has written to the court asking for a copy of his trial and sentencing transcripts at government expense. His criminal case (08-cr-87-bbc) is currently on appeal before the Court of Appeals for the Seventh Circuit on defendant's motion for a new trial under Fed. R. Crim P. Rule 33(b). Defendant states that he needs the transcripts to pursue his motion under 28 U.S.C. § 2255. Therefore, I construe his letter as request for preparation of the transcripts at government expense, pursuant to 28 U.S.C. §753(f), which provides in relevant part:

Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States . . . if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

Because defendant's Rule 33 motion is on appeal, his § 2255 motion is stayed until that appeal has been decided. The district court should not consider any substantive motions while an appeal is pending. United States v. Robinson, 8 F.3d 398 (7th Cir. 1993). I will stay a decision on defendant's request for preparation of the transcripts at government expense until the court of appeals has decided his Rule 33 motion.

ORDER

IT IS ORDERED that defendant's motion for preparation of transcripts at government expense pursuant to 28 U.S.C. §753(f) is STAYED pending resolution by the court of appeals of his motion for a new trial.

Entered this 3d day of July, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge