

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHERYL McNAMEE,

Defendant.

ORDER

13-cv-10-bbc

Defendant Cheryl McNamee filed an appeal of the February 28, 2013 order denying her motion for post conviction relief. The motion did not reach the court until May 23, 2013, 88 days after entry of judgment on the motion. Included with the filing was a letter dated May 15, 2013, in which defendant said that she had mailed her appeal papers on May 3, 2013, but had used the wrong address for the court and the papers had not been returned to her until May 14, 2013.

In the May 24, 2013 order transmitting her appeal to the court of appeals, I noted that the appeal seemed to be untimely but that it was up to the court of appeals to make that decision. In an order entered June 27, 2013, the court construed defendant's May 15, 2013 letter as a motion for extension of time in which to file her appeal and asked this court to act on the motion.

Under Fed. R. App. P. 4(a)(5), a district court may extend the time to file a notice of

appeal if the party seeking to appeal files a request for an extension within 30 days after the time for filing the appeal has expired. I will construe defendant's cover letter as a request for an extension of time in which to file her notice of appeal and will grant the request.

ORDER

IT IS ORDERED that defendant Cheryl McNamee's May 15, 2013 letter to the court, dkt. #11-2, is construed as a request for an extension of time and is GRANTED.

Entered this 1st day of July, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge