

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

DANIEL HULL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER

01-cr-69-bbc
15-cv-123-bbc

Petitioner Daniel Hull has filed a notice of appeal from the August 18, 2015 order denying his post conviction motion under 28 U.S.C. § 2255, along with a motion to proceed in forma pauperis on appeal. Although it appears that the appeal is untimely, it is not within this court's authority to determine the timeliness of an appeal; that decision is for the court of appeals to make.

According to 28 U.S.C. § 1915(a), a petitioner 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." Petitioner 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. Petitioner'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

Petitioner Daniel Hull's motion to proceed in forma pauperis on appeal is GRANTED.

Entered this 14th day of October, 2015.

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