

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

COREY THOMAS,

Defendant.

ORDER

08-cr-87-bbc

12-cv-269-bbc

On April 11, 2012, defendant filed a motion for post conviction relief under 28 U.S.C. § 2255, contending that his trial counsel had been ineffective and that he had been sentenced improperly as a career offender. Dkt. #1. After reviewing defendant's motion and the government's response, I denied the motion in an order entered on February 15, 2013. Dkt. #22. Defendant appealed unsuccessfully; this court's judgment was affirmed by the Court of Appeals for the Seventh Circuit on November 12, 2013. Dkt. #30.

On February 11, 2014, defendant filed a motion under Fed. R. Civ. P. 60(b), contending that the court had erred when it denied his § 2255 motion the year before. Dkt. #31. This motion was construed as a second attempt to challenge the legality of his sentence and denied because it was not accompanied by a certification by a panel of the court appeals that it contained newly discovered evidence or "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court." Dkt. #34.

Defendant filed a motion for reconsideration of this order, which was denied on February 26, 2014. Defendant appealed the denials of both motions, dkt. #35. The appeal pending before the court of appeals.

Now defendant has written to the court, asking why the court failed to address his motion for a bill of particulars on his Rule 60(b) motion and why the motion was denied. Because defendant failed to obtain certification from the court of appeals to file his 60(b) motion, this court had no authority to consider it or his motion for a bill of particulars. It could only dismiss it for lack of jurisdiction.

ORDER

Defendant's request for a bill of particulars and his request for an explanation for the denial of his Rule 60(b) motion are DENIED.

Entered this 28th day of March, 2014.

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