

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

TREVOR RYAN,

Defendant.

ORDER

08-cr-164-bbc

14-cv-430-bbc

On September 19, 2014, I denied defendant Trevor Ryan's motion for post conviction relief under 28 U.S.C. § 2255 for his failure to show that either his conviction or sentence is illegal. In the same order, I also denied the issuance of certificate of appealability under the newly effective amendments to Rule 11 of the Rules Governing Section 2255 Cases in the United States District Courts.

Now defendant has filed a notice of appeal from the September 19, 2014 order and judgment denying his post conviction motion under 28 U.S.C. § 2255, a motion to proceed on appeal in forma pauperis and a motion for appointment of counsel.

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).

As to defendant’s motion for appointment of counsel, he must file his motion with the Court of Appeals for the Seventh Circuit, which has jurisdiction over his case.

ORDER

IT IS ORDERED that defendant Trevor Ryan’s request for leave to proceed in forma pauperis on appeal is GRANTED. His motion for appointment of counsel is DENIED for lack of jurisdiction.

Entered this 22d day of September, 2014.

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