

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION
 :
 vs. :
 :
 TRACY CLARK, PRO SE : NO. 01-428-02

MEMORANDUM

ROBERT F. KELLY, Sr. J.

MARCH 12, 2007

Defendant Tracy Clark filed a motion under 28 U.S.C. § 2255 to vacate, set-aside or correct his sentence contending that counsel was ineffective.

On October 27, 2006 this Court filed a Memorandum denying Tracy Clark's request for a new trial based on ineffective assistance of counsel.

On the same date we granted Tracy Clark's request to be re-sentenced as a result of U.S. v. Booker, 543 U.S. 220 (2005).

On November 27, 2006 this Court re-sentenced Tracy Clark.

According to the docket entries a pro se appeal was filed on December 22, 2006. On December 28, 2006 Tracy Clark filed a request for extension of time to file an appeal.

From the records before this Court I cannot tell whether the appeal that was filed was from our denial of Defendant's request for a new trial based on ineffective assistance of counsel on October 27, 2006 or on his re-sentencing on November 27, 2006. In either event it is the feeling of this Court that the time within which Tracy Clark was to file his appeal from either of those decisions should be extended because of the likelihood of confusion in his mind as to which event was appealable.

I therefore enter the following Order.

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ORDER

AND NOW, this 12th day of March, 2007, the time within which Tracy Clark may file an appeal from the decisions in the above-captioned case is extended to December 22, 2006.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE