

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

UNITED STATES OF AMERICA : CRIMINAL NO. 93-394
 :
 v. :
 :
 CRAIG B. SOKOLOW :

MEMORANDUM ORDER

J.M. KELLY, J.

MAY 5, 1999

Craig B. Sokolow ("Sokolow") has filed a document entitled "Craig Sokolow's Response to Government's Response for Reconsideration of Memorandum Order dated January 26, 1999 and to the Governments Response to a Request to Proceed in Forma Pauperis." In essence, Sokolow has filed a reply brief without seeking leave of Court.

Sokolow is appealing denial of his Motion to Vacate, Set Aside or Correct Sentence, which was filed pursuant to 28 U.S.C. § 2255. On January 26, 1999, the Court denied Sokolow's Motion for Leave to Appeal in Forma Pauperis. Sokolow subsequently filed a Motion for Reconsideration which the Court granted in part and denied in part on April 22, 1999. On April 27, 1999, Sokolow filed the instant Reply Brief.

If a procedure is not the subject of a specific § 2255 Rule, the Court may apply the Federal Rules of Criminal Procedure or the Federal Rules of Civil Procedure, whichever it deems is most appropriate. Rule 12, Rules Governing § 2255 Proceedings. The Court concludes that the Federal Rules of Civil Procedure are applicable to Sokolow's Motion for Leave to Appeal in Forma

Pauperis. There is no provision for a movant to file a reply brief under the Federal Rules of Civil Procedure. Rule 7.1(c) of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania provides for a brief in support and a brief in opposition to any motion. A movant must seek leave to file a reply brief to address matters not raised in the initial motion. Sokolow has not availed himself of seeking leave to file the present reply brief.¹ Consequently, the Court could view the instant brief as improvidently filed and ignore it. Further, there is no indication that Sokolow filed a copy of his Reply Brief with the Government, which also suggests that ignoring the Reply Brief is appropriate. Out of an abundance of caution, the Court has reviewed Sokolow's Reply Brief and finds that rather than addressing new matter raised in the Government's Response, it merely reargues matters that Sokolow has already placed before the Court. Therefore, the Court shall DISMISS the Reply Brief.

BY THE COURT:

JAMES MCGIRR KELLY, J.

¹The Court notes that by Standing Order in civil matters, reply briefs are allowed as of right. The present matter, filed under § 2255, is not governed by that Standing Order.