

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

|                                  |   |                            |
|----------------------------------|---|----------------------------|
| <b>UNITED STATES OF AMERICA,</b> | ) |                            |
|                                  | ) |                            |
| <b>Plaintiff,</b>                | ) |                            |
|                                  | ) | <b>CRIMINAL ACTION</b>     |
| <b>v.</b>                        | ) |                            |
|                                  | ) | <b>No. 03-20137-01-KHV</b> |
| <b>SHAD FISH,</b>                | ) |                            |
|                                  | ) |                            |
| <b>Defendant.</b>                | ) |                            |
| _____                            | ) |                            |

**ORDER**

This matter is before the Court on defendant's Motion For Extension Of Time To File Motion To Correct Sentence (Doc. #56) filed November 1, 2005 and defendant's Motion To Correct Sentence (Doc. #57) filed November 3, 2005.

On October 18, 2005, the Court sentenced defendant. Defendant seeks an extension of the period to file a motion to correct his sentence under Rule 35(a), Fed. R. Crim. P. Rule 35(a) permits the Court to correct a sentence "[w]ithin 7 days after sentencing" for "arithmetical, technical, or other clear error." The district court has jurisdiction to correct sentencing errors for only seven days after it orally sentences a defendant. See United States v. Green, 405 F.3d 1180, 1185 (10th Cir. 2005). Accordingly, defendant had until October 27, 2005 to file a motion under Rule 35(a). Rule 45(b)(2), Fed. R. Crim. P., provides that the district court cannot extend the deadline under Rule 35 except as specifically stated in that rule. Because Rule 35 does not provide for any extensions of the seven day period under Rule 35(a), the Court must overrule defendant's request for an extension of time. Because the Court cannot extend the deadline

for defendant's Rule 35(a) motion, it must also overrule defendant's motions for lack of jurisdiction.<sup>1</sup>

**IT IS SO ORDERED.**

Dated this 7th day of November, 2005, at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge

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<sup>1</sup> On October 25, 2005, the Court entered judgment. Defendant is advised that under Rule 4(a), Fed. R. App. P., he must file a notice of appeal within 10 days after entry of judgment.