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

United States of America,

Plaintiff,

vs.

Cesar Rodriguez-Cardoza,

Defendant/Movant.

No. CV 14-1911-PHX-DGC (DKD)
CR 08-1320-PHX-DGC

ORDER

Movant Cesar Rodriguez-Cardoza, who is confined in the Central Arizona Detention Center in Florence, Arizona, has filed a *pro se* Motion for Sentence Relief Under the Federal Prison Bureau Non-Violent Offender Relief Act of 2003. The Court will deny the Motion.

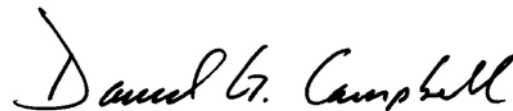
This matter has been opened as a motion to vacate sentence under 28 U.S.C. § 2255. However, Movant’s Motion does not refer to § 2255. Nor does he refer to any other jurisdictional basis for his Motion. Although the Court may construe a *pro se* motion as a § 2255 motion, it may not do so without first giving certain warnings to the movant. In *Castro v. United States*, 540 U.S. 375, 377 (2003), the Supreme Court held a district court may not recharacterize a motion as a defendant’s first § 2255 motion without first warning him that the recharacterization will subject subsequent § 2255 motions to the law’s “second or successive” restrictions and allowing him an opportunity to withdraw or to amend the motion. However, even if the Court provided Movant with

1 the requisite *Castro* warning, it would not recharacterize this matter as a motion brought
2 under § 2255 because his claim for relief is frivolous.

3 In his Motion, Movant seeks relief under a bill (the Federal Bureau of Prisons
4 Nonviolent Offender Relief Act of 2003, H.R. 3575, 108th Cong. (2003)) introduced in
5 Congress to amend 18 U.S.C. § 3624. That bill was never enacted. Accordingly,
6 Movant's Motion has no arguable basis in fact or in law.

7 **IT IS ORDERED** that Movant's Motion for Sentence Relief Under the Federal
8 Prison Bureau Non-Violent Offender Relief Act of 2003 (Doc. 39 in CR 08-1320-PHX-
9 DGC) is **denied** and that the civil action opened in connection with this Motion (CV 14-
10 1911-PHX-DGC (DKD)) is **dismissed**. The Clerk of Court must enter judgment
11 accordingly.

12 Dated this 29th day of October, 2014.

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17 David G. Campbell
18 United States District Judge
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