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

United States of America,  
  
Plaintiff,  
  
v.  
  
Alvin Franke Bennett,  
  
Defendant/Movant.

No. CV 15-8046-PCT-SMM (MHB)  
CR 07-0238-PCT-SMM

**ORDER**

On March 30, 2015, Movant Alvin Franke Bennett, who is confined in the United States Penitentiary-Lewisburg in Lewisburg, Pennsylvania, filed an unsigned *pro se* Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody.

**I. Movant’s § 2255 Motion is Unsigned**

Movant did not sign his § 2255 Motion. The § 2255 Motion must be signed by Movant under penalty of perjury. *See* 28 U.S.C. § 2242; Rule 2(b)(5) of the Rules Governing Section 2255 Proceedings; Fed. R. Civ. P. 11(a); LRCiv 3.5(a). An unsigned pleading must be stricken unless omission of the signature is corrected promptly after being called to the attention of the party. Fed. R. Civ. P. 11(a).

Because the § 2255 Motion is unsigned, Movant will be given 30 days from the filing date of this Order to submit a completed and signed Certificate, using the Certificate form included with this Order, certifying that Movant’s signature on the Certificate will serve as an original signature, under penalty of perjury, on his § 2255

1 Motion for the purposes of 28 U.S.C. § 2242, Rule 2(b)(5) of the Rules Governing  
2 Section 2255 Proceedings, Rule 11(a) of the Federal Rules of Civil Procedure, and Rule  
3 3.5(a) of the Local Rules of Civil Procedure.

4 If Movant fails to file a completed and signed Certificate on the form provided  
5 with this Order, within 30 days, the Clerk of Court will, without further notice, strike his  
6 § 2255 Motion and dismiss this case.

7 **II. Warnings**

8 **A. Address Changes**

9 Movant must file and serve a notice of a change of address in accordance with  
10 Rule 83.3(d) of the Local Rules of Civil Procedure. Movant must not include a motion  
11 for other relief with a notice of change of address. Failure to comply may result in  
12 dismissal of this § 2255 action.

13 **B. Copies**

14 Movant must submit an additional copy of every filing for use by the Court. *See*  
15 LRCiv 5.4. Failure to comply with this requirement may result in the filing being  
16 stricken without further notice to Movant.

17 **C. Possible Dismissal**

18 If Movant fails to timely comply with every provision of this Order, including  
19 these warnings, the Court may dismiss this § 2255 action without further notice. *See*  
20 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss  
21 an action for failure to comply with any order of the Court).

22 **IT IS ORDERED:**


23 (1) Within 30 days of the date this Order is filed, Movant must file a completed  
24 and signed Certificate, using the Certificate form provided with this Order, certifying that  
25 Movant's signature on the Certificate will serve as an original signature, under penalty of  
26 perjury, on his § 2255 Motion for purposes of 28 U.S.C. § 2242, Rule 2(b)(5) of the  
27 Rules Governing Section 2255 Proceedings, Rule 11(a) of the Federal Rules of Civil  
28 Procedure, and Rule 3.5(a) of the Local Rules of Civil Procedure.

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(2) If Movant fails to file a completed and signed Certificate on the form provided with this Order, within 30 days, the § 2255 Motion (Doc. 16 in CR 07-0238-PCT-SSM) will be **stricken** and the Clerk of Court must, without further notice, enter a judgment of dismissal without prejudice of the civil action (CV 15-8046-PCT-SMM (MHB)) opened in connection with the § 2255 Motion.

(3) The Clerk of Court must mail Movant the Certificate form.

DATED this 3rd day of April, 2015.

  
Honorable Stephen M. McNamee  
Senior United States District Judge

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(Your Name and Address)

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

United States of America,  
Plaintiff,

No. CV 15-8046-PCT-SMM (MHB)  
CR 07-0238-PCT-SMM

v.

**CERTIFICATE**

Alvin Franke Bennett,  
Defendant/Movant.

I, Alvin Franke Bennett, hereby certify:

I have read the *pro se* § 2255 Motion filed by me on March 30, 2015, and to the best of my knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or a needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

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(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

I further certify that my signature on this document shall serve as an original signature, under penalty of perjury, on the above-referenced § 2255 Motion for the purposes of 28 U.S.C. § 2242, Rule 2(b)(5) of the Rules Governing Section 2255 Proceedings, Rule 11(a) of the Federal Rules of Civil Procedure, and Rule 3.5(a) of the Local Rules of Civil Procedure.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
(Signature of Movant)  
Alvin Franke Bennett