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E-FILED - 11/21/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff/Respondent,
v.
MELCHOR ARTURO LOPEZ,
Defendant/Movant.

CASE NO.: C-04-04177-RMW
(Related to: CR-00-20335-RMW)

ORDER RE MOTION PURSUANT TO 28
U.S.C. § 2255

The government has responded to the motion to set aside his sentence and conviction filed pursuant to 28 U.S.C. §2255 by Oscar Antonio Garcia-Salinas AKA Arturo Melchor Lopez. The government provides a declaration from movant's counsel denying that he ever advised movant that he would avoid deportation by entering into a plea agreement and pleading guilty as he did. Movant's claim that he was so advised is vague and conclusionary. Absent a declaration under oath from movant or someone else with personal knowledge that sets forth who specifically gave the advice, who was present when it was given and specifically what was said, the court will deny the motion without further proceedings. Movant is to file and serve such a declaration by December 19, 2008. Absent such filing, the motion will be denied without further proceedings.

DATED: November 20, 2008



RONALD M. WHYTE
United States District Judge

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Copy of Order Mailed to:

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Counsel for Government

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