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**\*E-FILED - 5/4/11\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

EDWARD HARVEY,  
Plaintiff,  
v.  
UNITED STATES OF AMERICA,  
Defendant.

Case No.: C-10-00019 RMW  
Related Criminal Case: No. CR-05-00373  
RMW  
ORDER ON MOTION SEEKING  
CLARIFICATION  
**[Re Docket Nos. 4 and 5 (Action No. C-10-00019 RMW)]**

Defendant Edward Harvey seeks clarification as to whether his motion under 28 U.S.C. § 2255 which was docketed under the number C-10-00019 RMW on February 7, 2011 has received a final ruling. It has. Harvey's confusion undoubtedly results from the fact that the clerk's office gave his § 2255 motion a separate case number from his criminal case number but docketed most of the events pertaining to the § 2255 motion on the criminal case docket. The confusion may have also have resulted from a difficulty in determining how to classify the various papers filed by Harvey. Nevertheless, the court's orders themselves (docket numbers 126 and 130 in the criminal case CR-05-00373) are captioned with the C-10-00019 number.

The chronology, therefore, is as follows:

January 25, 2011: Harvey's § 2255 motion is denied.

ORDER ON MOTION SEEKING CLARIFICATION  
NO. CR-05-00373-RMW

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February 7, 2011: Harvey files notice of appeal


February 11, 2001: Harvey's request to add additional citations to his motion is granted.

Court reaffirms denial of § 2255 motion. Court denies certificate of appealability.

The clerk can close C-10-00019 (criminal file CR-05-00373 has previously been closed).

To pursue an appeal, Harvey must get the Court of Appeals to issue a certificate of appealability.

DATED: 5/4/11

  
\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge

1 **Copy of Order electronically mailed to:**

2 **Counsel for the Government:**

3 Shawna Yen

shawna.yen2@usdoj.gov

4

5 **Copy of Ordered mailed to:**

6 Edward Harvey

c/o F.C.I. Loretto

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Federal Correction Institution

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Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.

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Dated: 5/4/11

/S/ JG

Chambers of Judge Whyte

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