

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

MARCUS NASH,

Petitioner,

v.

CASE NO: 8:10-CV-2633-T-30TGW  
Crim. Case No: 8:05-CR-373-T-30TGW

UNITED STATES OF AMERICA,

Respondent.

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**ORDER**

THIS CAUSE comes before the Court upon Petitioner's Amended Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. §2255 (CV Dkt. #4) filed on December 21, 2010, and Respondent's Motion to Dismiss Petitioner's Section 2255 Motion as Time-Barred (Dkt. #7) filed on March 3, 2011. Petitioner did not file a response to the Motion to Dismiss or respond to this Court's Order to Show Cause (Dkt. #8) entered on May 16, 2011, which directed Petitioner to show cause why his Petition should not be dismissed as time-barred.

Upon review and consideration, the Court determines the Petitioner's Motion should be dismissed as time-barred. It is therefore

ORDERED AND ADJUDGED that:

1. Respondent's Motion to Dismiss Petitioner's Section 2255 Motion as Time-Barred (Dkt. #7) is GRANTED.

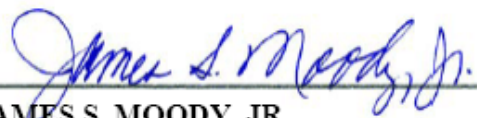
2. Petitioner's Amended Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. §2255 (CV Dkt. #4) is DISMISSED without prejudice as time-barred.

3. To the extent that a certificate of appealability is required before Petitioner may appeal, the Court will deny the certificate because Petitioner has failed to make a substantial showing that reasonable jurists might disagree that the Petition is time-barred.

4. The Clerk is directed to terminate from pending status the motion to vacate found at Dkt.#49, in the underlying criminal case, case number 8:05-cr-373-T-30TGW.

5. The Clerk is directed to close this file.

**DONE** and **ORDERED** in Tampa, Florida on June 16, 2011.

  
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**JAMES S. MOODY, JR.**  
**UNITED STATES DISTRICT JUDGE**

**Copies furnished to:**  
Counsel/Parties of Record

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