

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JOSEPH PAUL YOUNG,

Movant

v.

CIVIL ACTION NO. 2:09-1554
(Criminal No. 2:08-00226)

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OPINION AND ORDER

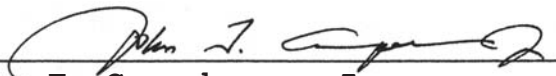
Pending is movant's "motion pursuant to Rule 51, Preserving Claimed Error" ("Rule 51 motion") filed May 12, 2011.

On December 27, 2010, the court entered its Judgment denying movant's motion pursuant to 28 U.S.C. § 2255. Movant failed to notice an appeal from the Judgment. In his Rule 51 motion, movant requests the court to consider as preserved an alleged error during his criminal case relating to false statements made in a report by an agent of the Federal Bureau of Investigation. Movant asserts that he may use the alleged false statements as evidence to support a motion at some future time pursuant to Rule 33(b)(1) governing the grant of a new trial based upon newly discovered evidence. Pursuant to that Rule, movant has three years "after the . . . finding of guilty" in order to move for relief. Fed. R. Crim. Proc. 33(b)(1).

Rule 51 does not govern here. If movant wishes to pursue a new trial, he is obliged to satisfy the substantive and procedural requirements of Rule 33. The court, accordingly, ORDERS that the Rule 51 motion be, and it hereby is, denied.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record, and the United States Magistrate Judge.

DATED: May 13, 2011



John T. Copenhaver, Jr.
United States District Judge