

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 August 29, 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 that occurred during a trial on an indictment against him in the United States District Court for the District of South Dakota. The case appears to be United States v. Young, No. 4:08-40151. Following a jury trial, movant was convicted there on August 25, 2010. The Judgment was entered November 9, 2010. Movant's direct appeal was unsuccessful, and the United States Court of Appeals for the Eighth Circuit entered the mandate on August 9, 2011.

Movant now alleges that certain evidence was admitted in his South Dakota trial in violation of the plea agreement that he entered into in this district on February 24, 2009. Rule 51 does not govern here. Inasmuch as the only relief movant requests is that the court "preserve [the] . . . error pursuant to RULE 51, until he completes his court proceedings in the district of Minnesota [sic]," it is ORDERED that the Rule 51 motion be, and it hereby is, denied.

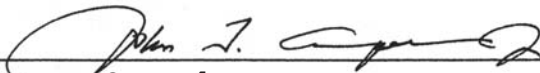
The Clerk is directed to forward copies of this written opinion and order to the movant and all counsel of record and to the following lawyers involved in the South Dakota matter:

Timothy Joseph Langley
Federal Public Defender's
Office
200 West 10th Street #200
Sioux Falls, SD 57104

Jeffrey C. Clapper
U.S. Attorney's Office
P.O. Box 2638
Sioux Falls, SD 57101-2638

Jan Leslie Holmgren
U.S. Attorney's Office
P.O. Box 2638
Sioux Falls, SD 57101-2638

ENTER: September 26, 2011



John T. Copenhaver, Jr.
United States District Judge