

Court also **DENIES as moot** the motion for status. (Docs. 43 and 45). If the defendant believes that the government's failure to file a Rule 35(b) motion is premised on an unconstitutional motive, defendant must file a civil habeas petition seeking to vacate, set aside or correct sentence, pursuant to 28 U.S.C. §2255.

IT IS SO ORDERED.

DATED: 05 April, 2013

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE