

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL ACTION
v.)	
)	No. 01-20147-01-KHV
RALPH MERCADO,)	
)	
Defendant.)	
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ORDER

On June 16, 2005, the Court ordered defendant to show cause in writing on or before July 18, 2005, why the Court should not overrule his Section 2255 motion based on insufficient evidence. See Order (Doc. #118). Defendant did not respond and on August 10, 2005, the Court entered an order which overruled his Section 2255 motion. See Order (Doc. #119). This matter comes before the Court on the Rule 60 Motion (Doc. #120) which defendant filed *pro se* on August 31, 2005.

Rule 60(a), Fed. R. Civ. P., provides that “[c]lerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.” Defendant asserts that due to clerical error, he did not receive a copy of the show cause order dated June 16, 2005. On March 16, 2005, the Court appointed counsel to represent defendant in this case. On June 16, 2005, the Court electronically notified defendant’s counsel of the show cause order. Because defendant was represented by counsel, he was not entitled to personal notification of the show cause order. See Rule 5(a) and (b), Fed. R. Civ. P.; D. Kan. Rule 5.4.10. As such, no clerical error occurred.

IT IS THEREFORE ORDERED that the Rule 60 Motion (Doc. #120) which defendant filed *pro se* on August 31, 2005 be and hereby is **OVERRULED**.

Dated this 12th day of September, 2005 at Kansas City, Kansas.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge