

**FILED**  
**United States Court of Appeals**  
**Tenth Circuit**

**UNITED STATES COURT OF APPEALS**

**TENTH CIRCUIT**

**September 19, 2011**

**Elisabeth A. Shumaker**  
**Clerk of Court**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES A. MCKEIGHAN,

Defendant - Appellant.

No. 11-3044  
(D.C. Nos. 2:10-CV-02542-JWL &  
2:06-CR-20066-JWL-1)  
(D. Kan.)

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**ORDER**

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Before **LUCERO, GORSUCH** and **MATHESON**, Circuit Judges.

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This matter is before the court on Mr. McKeighan's 28 U.S.C. § 2255 application for a certificate of appealability. In light of this court's September 8, 2011 order in related case no. 08-3204, this court lifts the June 6, 2011 order of abatement and dismisses this matter as moot without prejudice to Mr. McKeighan's later submitting a 28 U.S.C. § 2255 motion as an original filing. We grant Mr. McKeighan's motion to proceed in forma pauperis. A copy of this order shall stand as the mandate of the court.

ENTERED FOR THE COURT

Scott M. Matheson, Jr.  
Circuit Judge