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UNITED STATES CODE SERVICE  
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\*\*\* CURRENT THROUGH CHANGES RECEIVED DECEMBER, 2004 \*\*\*

## RULES GOVERNING SECTION 2255 PROCEEDINGS

*USCS Sec 2255 Proc R 12 (2005)*

Review Court Orders which may amend this Rule.

Rule 12. Applicability of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure

The Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.

**HISTORY:**

(As amended Dec. 1, 2004.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

Other provisions:

**Notes of Advisory Committee on Rules.** This rule differs from rule 11 of the § 2254 rules in that it includes the Federal Rules of Criminal Procedure as well as the civil. This is because of the nature of a § 2255 motion as a continuing part of the criminal proceeding (see advisory committee note to rule 1) as well as a remedy analogous to habeas corpus by state prisoners.

Since § 2255 has been considered analogous to habeas as respects the restrictions in *Fed R Civ P 81 (a)(2)* (see *Sullivan v United States, 198 F Supp 624 (SDNY 1961)*), rule 12 is needed. For discussion, see the advisory committee note to rule 11 of the § 2254 rules.

**Notes of Advisory Committee on 2004 amendments.** The language of Rule 12 has been amended as part of general restyling of the rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic and no substantive change is intended.