

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

LON CAMPBELL,)	
)	
Petitioner,)	
)	
vs.)	No. 1:15-cv-00192-TWP-TAB
)	
USA,)	
)	
Respondent.)	

**Entry Dismissing Motion for Relief Pursuant to
28 U.S.C. § 2255 Without Prejudice**

Petitioner Lon Campbell has filed a motion for post-conviction relief under 28 U.S.C. § 2255. On January 21, 2015, Mr. Campbell pled guilty to and was sentenced for using a false Social Security Number. He appealed his conviction to the Seventh Circuit Court of Appeals. His appeal is pending.

The United States has moved to dismiss Mr. Campbell’s § 2255 motion. Absent extraordinary circumstances, the district court should not consider a § 2255 motion while a direct appeal is pending. *United States v. Robinson*, 8 F.3d 398 (7th Cir. 1993). Mr. Campbell has not alleged any extraordinary circumstances that require consideration of his § 2255 motion while his appeal is pending. Therefore, the motion to dismiss [dkt 4] is **granted** and Mr. Campbell’s 28 U.S.C. § 2255 motion is **dismissed** without prejudice because it is **premature**.

Because the motion is denied as premature and not on the merits, Mr. Campbell may file a new § 2255 motion after his appeal is decided. Such a motion would not be “second or successive” motion under 28 U.S.C. 2244(a). *O’Connor v. United States*, 133 F.3d 548, 694 (7th Cir. 1998) (when § 2255 petition is returned to petitioner on ground that no collateral attack could be begun

while appeal pending, it does not count as petition; petitioner may file new motion after appeal decided without obtaining permission from the court of appeals).

A copy of the Entry and Judgment in this action **shall be docketed** in No. 1:07-cr-95-TWP-TAB-1.

IT IS SO ORDERED.

Date: 5/14/2015



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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P.O. Box 1000
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Note to Clerk: Processing this document requires actions in addition to docketing and distribution.