

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MEMORANDUM AND ORDER

This matter is before the Court on movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Movant seeks habeas corpus relief from the final judgment entered in United States v. Chalov, 4:13-CR-492-RWS (E.D. Mo.). The Court notes, however, that on April 6, 2015, movant filed a direct appeal from said judgment, and the appeal has been transmitted to the United States Court of Appeals for the Eighth Circuit.

Because movant's direct appeal is pending, his § 2255 motion has been prematurely filed. See Masters v. Eide, 353 F.2d 517, 518 (8th Cir.1965) (per curiam) (resort cannot ordinarily be had to habeas corpus while an appeal from a conviction is pending). Finding no extraordinary circumstances that would allow movant to file his motion at this time, the Court will dismiss this action without prejudice to refiling after the direct criminal appeal is concluded.

Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 is **DENIED** without prejudice.

A separate Order of Dismissal will accompany this Memorandum and Order.

Dated this 23rd day of April, 2015.

Silv n Sijuel
UNITED STATES DISTRICT JUDGE