

R E C E I V E D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MAR 13 2018

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

ELIYAHU WEINSTEIN,

Petitioner,

v.

UNITED STATES,

Respondents.

HONORABLE ANNE E. THOMPSON

Civil Action
No. 18-0894 (AET)

MEMORANDUM OPINION

THOMPSON, U.S. District Judge:

Before the Court is Petitioner Eliyahu Weinstein's motion to correct, vacate, or set aside his federal sentences pursuant to 28 U.S.C. § 2255. (ECF No. 1).

1. Petitioner, through counsel, moves to set aside his federal sentences in *United States v. Weinstein*, No. 11-cr-701 (D.N.J.) and *United States v. Weinstein*, No. 14-cr-219 (D.N.J.).

2. Section 2255 of Title 28 provides in relevant part:

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

28 U.S.C. § 2255(a).

3. Under the Rules Governing Section 2255 Cases, "[a] moving party who seeks relief from more than one judgment **must** file a separate motion covering each judgment."

28 U.S.C. § 2255 Rule 2(d) (emphasis added).

4. Petitioner filed one motion, brief, and set of exhibits for both judgments. The brief did not contain a table of authorities. Local Civ. R. 7.2(b).
5. Each exhibit was filed as a separate docket entry. For other exhibits Petitioner merely referred the Court to a docket entry in his criminal cases.
6. Because Petitioner did not comply with the filing requirements for § 2255 proceedings and Local Civil Rules, the Court will dismiss the motion without prejudice.
7. Petitioner may resubmit his motions within 30 days. He must file a separate action for each judgment. The briefs and appendices must comply with the local filing requirements. The appendices must contain an index identifying each exhibit as well as all of the exhibits Petitioner wishes the Court to consider.
8. A certificate of appealability pursuant to 28 U.S.C. § 2253(c)(1) is denied because jurists of reason would not find it debatable that dismissal of the Petition is correct. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
9. An appropriate Order accompanies this Opinion.

3/13/18
Date


ANNE E. THOMPSON
U.S. District Judge