

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

CARF FLAHARTY and GARTH BRUCE,

Petitioners,

- versus -

UNITED STATES OF AMERICA,

Respondent.

ORDER

12-CV-2969

JOHN GLEESON, United States District Judge:

Carf Flaharty, proceeding on his own behalf and on behalf of Garth Bruce, brings this *pro se* habeas petition to vacate his and Bruce's judgments of conviction for federal crimes related to their participation in a drug conspiracy.

As an initial matter, although Flaharty purports to bring this action on behalf of Bruce, a layperson "may not appear on another person's behalf in the other's cause."

*Iannaccone v. Law*, 142 F.3d 553, 558 (2d Cir. 1997). I thus dismiss the petition as to Bruce without prejudice to refile by Bruce, either *pro se* or with proper representation.

Considering the petition as to Flaharty, Flaharty has already collaterally attacked his convictions, *see Flaharty v. United States*, No. 03 Civ. 3756 (E.D.N.Y. Feb. 24, 2004), and the instant petition is thus a "successive" petition governed by 28 U.S.C. §§ 2255(h), 2244. Because Flaharty lacks the requisite authorization to file a successive petition under these provisions, his petition is transferred to the court of appeals in the interest of justice. *See* 28 U.S.C. § 1631; *Liriano v. United States*, 95 F.3d 119, 123 (2d Cir. 1996).

Accordingly, the Clerk of Court is respectfully directed to transfer the instant application to the United States Court of Appeals for the Second Circuit and then close the case.

If the Second Circuit authorizes him to proceed with his successive petition, Flaharty shall move to reopen the case under this docket number.

So ordered.

John Gleeson, U.S.D.J.

Dated: June 22, 2012  
Brooklyn, New York