

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

STEVEN DONZIGER,

Defendant.

19-CR-561 (LAP)

11-CV-691 (LAK)

ORDER

LORETTA A. PRESKA, UNITED STATES DISTRICT JUDGE:

On July 16, 2020, the Government filed a motion in limine asking the Court to apply the collateral bar doctrine to preclude Mr. Donziger from "disputing the validity, lawfulness and constitutionality" of the orders underlying the criminal contempt charges and from "arguing that his disobedience could not constitute criminal contempt because he had a good faith belief that the orders were unlawful, in error, or would cause him to violate his ethical duties." (Dkt. no. 105.) Mr. Donziger opposed that motion, arguing, among other things, that the Court should defer ruling on the collateral bar doctrine's applicability until trial. (Dkt. no. 110 at 3-4.) It appears that the Government does not disagree with Mr. Donziger's point about the proper timing for deciding issues related to the collateral bar doctrine. Specifically, in its reply brief, the

Government states that it "does not object to the defendant developing an appropriate evidentiary record" but asks "that the Court remain vigilant to the defendant's assertions of purported exceptions to the collateral bar doctrine and how the defense presents evidence in that regard, such that this trial is conducted in an orderly fashion and legal and factual issues are not confused." (Dkt. no. 117 at 4.)

Having considered the parties' submissions, the Court agrees that the appropriate course is to defer ruling on the collateral bar issue until trial, when the Court will have the benefit of a fuller factual record. Accordingly, the Government's motion in limine (dkt. no. 105) is denied without prejudice to renewal at trial.

SO ORDERED.

Dated: October 24, 2020
New York, New York



LORETTA A. PRESKA, U.S.D.J.