

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
DOCUMENT
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SHU FENG XIA,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

14-cv-8284-RA
No. 12-cr-934-RA-9

OPINION AND ORDER

RONNIE ABRAMS, United States District Judge:

Movant Shu Feng Xia was convicted of conspiracy to commit immigration fraud pursuant to 18 U.S.C. § 371, United States v. Xia, No. 12-cv-934-RA-9 (S.D.N.Y. Aug. 12, 2014) (Dkt. 266), and his appeal is pending in the United States Court of Appeals for the Second Circuit. After his notice of appeal was filed, Xia filed three *pro se* documents before this Court in which he asserted, among other things, that he had been denied the effective assistance of counsel during his criminal proceedings. The Court construed those documents as seeking relief under 28 U.S.C. § 2255, directed that they be opened as a new civil action, and dismissed the matter without prejudice to Xia's refiling his application once his direct appeal is complete. See Xia v. United States, No. 14-cv-7978-RA (S.D.N.Y. Oct. 9, 2014) (Dkt. 4) ("Initial 2255 Petition").

On October 7, 2014, Xia, proceeding *pro se*, brought this motion under 28 U.S.C. § 2255, asserting in one paragraph that counsel was ineffective and asks the Court to "see the memo" he had previously submitted to the Court, an apparent reference to his prior submissions in his Initial 2255 Petition. (Motion, ¶¶ 9(f), 11(b) (Dkt. 1)) It appears that Xia filed this motion before he received the October 9, 2014 order dismissing the Initial 2255 Petition.

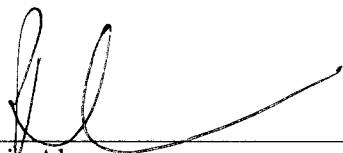
This matter is dismissed for the reasons set forth in the Court's October 9, 2014 order issued with respect to Initial 2255 Petition. The dismissal is without prejudice to any action Xia may file once his direct appeal has been decided.

The Clerk of Court is directed to mail a copy of this Order to Xia at the following address:

Shu Feng Xia (USM # 67791-054)
CI Moshannon Valley Correctional Center
555 Geo Drive
Philipsburg, PA 16866

SO ORDERED.

Dated: October 31, 2014
New York, New York



Ronnie Abrams
United States District Judge