

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

STEVE BORIA,

Defendant.

21-CV-4568 (RA)

17-CR-0142-1 (RA)

ORDER OF DISMISSAL

RONNIE ABRAMS, United States District Judge:

Movant Steve Boria, proceeding *pro se*, moves to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On October 18, 2019, Boria was convicted, after entering a guilty plea, to conspiracy to distribute and possess with intent to distribute cocaine base and discharging firearms during and in relation to a drug trafficking offense. He appealed that judgment on January 13, 2020, and that appeal remains pending. *See* No. 20-206 (2d Cir.).

Because Boria's direct appeal is pending, the Court denies the present § 2255 motion without prejudice as premature. Although the pendency of the appeal does not strip the Court of jurisdiction over the instant motion, concerns of judicial economy counsel in favor of dismissal. *See United States v. Outen*, 286 F.3d 622, 632 (2d Cir. 2002) (noting "the concern that the results on direct appeal may take the district court's efforts on the § 2255 motion a nullity"). Accordingly, the Court therefore denies the motion without prejudice.

CONCLUSION

The Court denies the present motion under 28 U.S.C. § 2255 without prejudice as premature. §

Because the present motion makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

The Clerk of Court is directed to mail a copy of this order to Movant and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 3, 2021
New York, New York



RONNIE ABRAMS
United States District Judge