

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DOMINGO BEATO-ESTRELLA,

Petitioner

: **ORDER DISMISSING § 2255
PETITION**

: -against-

UNITED STATES OF AMERICA,

Respondent.

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ALVIN K. HELLERSTEIN, U.S.D.J.:

Petitioner Domingo Beato-Estrella, after having pleaded guilty pursuant to a plea agreement and having received a sentence to a principal term of 188 months' imprisonment, filed a direct appeal to the Second Circuit on February 25, 2025. *See United States v. Beato-Estrella*, Nos. 25-432, 25-433 (2d Cir.). On February 28, 2025, he filed petitions to vacate, set aside, or correct his conviction and sentence under 28 U.S.C. § 2255. *See Beato-Estrella v. United States*, Nos. 25 Civ. 1806, 25 Civ. 1807 (S.D.N.Y.). Due to the pendency of his direct appeal, I dismiss Beato-Estrella's § 2255 petitions without prejudice to refile once he has exhausted his appeal.

"[H]abeas petitions filed before the petitioner has exhausted his direct appeal are generally considered premature." *Wall v. United States*, 619 F.3d 152, 154 (2d Cir. 2010). "District courts generally dismiss a § 2255 motion as premature when it is filed while a direct appeal is pending." *Castillo v. United States*, 17 Civ. 762 (NSR), 17 Civ. 2134 (NSR), 2017 WL 2297016, at *2 (S.D.N.Y. May 24, 2017); *see also* Adv. Comm. Notes to Rule 5 of the Rules Governing Section 2255 Proceedings ("[T]he courts have held that [a § 2255] motion is inappropriate if the movant is simultaneously appealing the decision."). Accordingly, I do so here.

The Clerk of Court shall close 25 Civ. 1806 and 25 Civ. 1807, and terminate all motions therein. She shall also terminate ECF Nos. 84 and 85 of 20 Cr. 324, and ECF Nos. 23 and 24 of 24 Cr. 520. Finally, she shall mail a copy of this Order to Beato-Estrella.

SO ORDERED.

Dated: March 5, 2025
New York, New York



ALVIN K. HELLERSTEIN
United States District Judge