

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:16-cv-00301-MR
[Criminal Case No. 1:15-cr-00027-MR-DLH-1]**

JONATHAN C. LOGAN,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on Petitioner’s Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [Doc. 1].

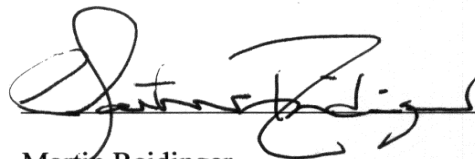
Judgment was entered against the Petitioner in his underlying criminal action in this Court on March 29, 2016. [Criminal Case No. 1:15-cr-00027-MR-DLH-1 (“CR”), Doc. 34]. The Petitioner filed the pending motion to vacate in this Court on September 6, 2016. [CR Doc. 36]. On December 2, 2016, the Petitioner filed a Notice of Appeal with the Fourth Circuit Court of Appeals, and his appeal is currently pending. [CR Doc. 37]. Because the Petitioner’s direct appeal is pending in the Fourth Circuit, his § 2255 motion to vacate is premature. The Court, therefore, will dismiss the motion to

vacate without prejudice to the Petitioner refiling the motion after resolution of his direct appeal.

IT IS, THEREFORE, ORDERED that the Petitioner's Motion to Vacate [Doc. 1] is **DISMISSED WITHOUT PREJUDICE** as premature.

IT IS SO ORDERED.

Signed: April 10, 2017


Martin Reidinger
United States District Judge

