

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

JEFFREY A. MARTINOVICH,

Petitioner,

v.

Case No. 4:18cv27
4:15cr50

UNITED STATES OF AMERICA,

Respondent.

ORDER

This matter is before the Court on a § 2255 motion filed by Jeffrey A. Martinovich ("Petitioner"). Following a remand from the Fourth Circuit, an evidentiary hearing in this Court was scheduled to address three remanded habeas claims; however, due to the COVID-19 pandemic, such hearing was rescheduled multiple times. On November 25, 2020, this Court issued an Order granting Petitioner's pro se motion seeking to postpone the December 11, 2020 evidentiary hearing to allow Petitioner time to adequately prepare and additional time to acquire counsel.¹ ECF No. 160. Petitioner was Ordered to "file a status update . . . within sixty (60) days" of the date of the Court's Order. Id. at 2.

On January 29, 2021, Petitioner filed a "Motion to Rescind and Withdraw[]" his § 2255 motion. ECF No. 164. In such filing,

¹ Petitioner is currently serving the remainder of his term of imprisonment on home confinement pursuant to the CARES Act. On January 27, 2020, this Court granted Petitioner's motion seeking to proceed pro se in his remanded § 2255 case. ECF No. 129. Many months later, Petitioner requested additional time to acquire counsel.

Petitioner discusses his current personal situation and term of home confinement and "respectfully requests this Honorable Court permit withdrawal and rescission of []his Motion to Vacate, Set Aside, or Correct a Sentence Pursuant to 28 U.S.C. Sec. 2255 and any and all collateral appeals and hearings." Id. at 3. Petitioner further argues that the Government has repeatedly opposed his § 2255 motion and that the Government has not opposed his motion to withdraw. Id. at 2.

The Court, having received no opposition from the Government, hereby **GRANTS** Petitioner leave to withdraw, and the remanded issues raised in Petitioner's § 2255 motion are hereby **DISMISSED**.² There being no remaining issues in this habeas case, the previously postponed evidentiary hearing is canceled.

The Clerk is **DIRECTED** to close Petitioner's habeas case and to forward a copy of this Order to Petitioner, Petitioner's former counsel, and to counsel for the United States.

IT IS SO ORDERED.



Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
February 5, 2021

² Petitioner's § 2255 motion was previously denied by another judge of this Court, and returned to this Court following remand from the Fourth Circuit. Accordingly, Petitioner's voluntary withdrawal of his motion at this time is not related to any correctable procedural infirmities, but rather, is predicated on Petitioner's decision not to pursue merits-based rulings on his ineffective assistance claims associated with the sentence he received in this case.