

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Crim. Action. No. 04-144-LPS-6
)
 JESUS SARRAGA-SOLANA,)
)
 Defendant.)

MEMORANDUM OPINION

I. BACKGROUND

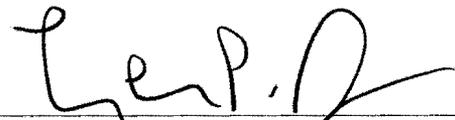
On October 7, 2005, a jury convicted Jesus Sarraga-Solana (“Movant”) of conspiracy to distribute one kilogram or more of heroin, a violation of 21 U.S.C. §§ 846 and 41(a)(1) & (b)(1)(A), as well as aiding and abetting possession with intent to distribute heroin, a violation of 21 U.S.C. § 841(a)(1). (D.I. 253, 254) The Honorable Joseph J. Farnan, Jr., sentenced Movant to 360 imprisonment on September 7, 2006. (D.I. 382) Movant’s convictions and sentence were affirmed on appeal. (D.I. 407)

On March 2, 2009, Movant filed a *pro se* motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which this Court denied on March 30, 2010. (D.I. 444, 471, 472) Movant filed the pending *pro se* Motion For an Evidentiary Hearing Pursuant to Rule 60(b)(6) on May 24, 2012. (D.I. 481) The Government responded on August 8, 2012. (D.I. 485) Movant next filed a Reply to the Government’s Response, and an additional motion for “Leave to Amend Pending Rule 60(b) Motion Pursuant to Federal Rules of Civil Procedure (15)(C).” (D.I. 487) For the reasons set forth below, the motions will be denied.

V. **CONCLUSION**

The Court concludes that Movant's § 2255 Motion constitutes an unauthorized second or successive § 2255 motion under 28 U.S.C. § 2244 and § 2255(h). Accordingly, the Court will dismiss Movant's motions (D.I. 481, 487) for lack of jurisdiction. A separate Order will be entered.

Dated: September 14, 2015
Wilmington, Delaware



HON. LEONARD P. STARK
UNITED STATES DISTRICT JUDGE

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 Defendant.)

ORDER

At Wilmington this 14th day of September, 2015;

For the reasons set forth in the accompanying Memorandum Opinion issued this date, IT IS HEREBY ORDERED that:

1. Movant Jesus Sarraga-Solana's unauthorized second or successive Motions to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 (D.I. 481, 487) are

DISMISSED and the writ is **DENIED** for lack of jurisdiction.

2. The Court declines to issue a certificate of appealability.

3. The Clerk shall mail a copy of the Memorandum Opinion and Order to Movant at his address on record. *See* Rule 4, 28 U.S.C. foll. § 2255. The Clerk is also directed to close the case.


UNITED STATES DISTRICT JUDGE