

AO 243 (Rev. 09/17)

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District <i>EASTERN DISTRICT OF VIRGINIA</i>
Name (under which you were convicted): <i>PETER RAFAEL DZIBINSKI DEBBINS</i>		Docket or Case No.: <i>1:20-CR-193</i>
Place of Confinement: <i>UNITED STATES PENITENTIARY BIG SANDY, PO BOX 2068, INEZ, KENTUCKY, 41224</i>	Prisoner No.: <i>05852509</i>	
UNITED STATES OF AMERICA		Movant (include name under which convicted) <i>V. PETER RAFAEL DZIBINSKI DEBBINS</i>

MOTION

- (a) Name and location of court which entered the judgment of conviction you are challenging:
*UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION
ALBERT V. BRYAN US COURTHOUSE
401 COURTHOUSE SQUARE, ALEXANDRIA, VIRGINIA 22314*
- (b) Criminal docket or case number (if you know): *1:20-CR-193*
- (a) Date of the judgment of conviction (if you know): *18 NOVEMBER 2020*
- (b) Date of sentencing: *17 MAY 2021*
- Length of sentence: *188 MONTHS*
- Nature of crime (all counts):
*18 U.S.C. § 794 (a) & (c)
CONSPIRACY TO GATHER OR DELIVER DEFENSE
INFORMATION TO AID A FOREIGN GOVERNMENT*



- (a) What was your plea? (Check one)
(1) Not guilty (2) Guilty (3) Nolo contendere (no contest)
- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

- If you went to trial, what kind of trial did you have? (Check one) Jury Judge only
- Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

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8. Did you appeal from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Name of court: US DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

(b) Docket or case number (if you know): UNKNOWN

(c) Result: ~~WITHHELD~~ / VOLUNTARILY DISMISSED APPEAL

(d) Date of result (if you know): JUNE 8, 2021

(e) Citation to the case (if you know): _____

(f) Grounds raised:

NONE

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

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- (4) Nature of the proceeding: _____
- (5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?
Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?
Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes No

(2) Second petition: Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

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- 12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE GROUND ONE CONTINUATION SHEETS
PAGES 1, 2, AND 3 OF 19

(b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

- (2) If you did not raise this issue in your direct appeal, explain why:

I WAS SUFFERING UNTREATED MENTAL ILLNESS AND HAD INSUFFICIENT KNOWLEDGE OF THE LAW.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application?

Yes No

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(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO: INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE GROUND TWO CONTINUATION SHEET
PAGES 4, 5, AND 6 OF 19

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

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(2) If you did not raise this issue in your direct appeal, explain why:

I WAS SUFFERING UNTREATED MENTAL ILLNESS AND HAD INSUFFICIENT KNOWLEDGE OF THE LAW.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

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GROUND THREE: INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

COUNSEL FAILED TO SUPPRESS EVIDENCE OBTAINED FROM SEARCH WARRANTS BECAUSE THE SEARCH WERE OBTAINED THROUGH A CERCEED AND INVOLUNTARY CONFESSION.

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

I HAD MENTAL ILLNESS (UNTREATED) AND INSUFFICIENT KNOWLEDGE OF THE LAW.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

COUNSEL FAILED TO SUPPRESS EVIDENCE SUCH AS EMAILS, PHOTOGRAPHS, AND TRANSIT STAMP IN PASSPORT, OBTAINED THROUGH THE CONFESSION BECAUSE THE CONFESSION WAS COERCED AND INVOLUNTARY.

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

I WAS SUFFERING MENTAL ILLNESS AND HAD INSUFFICIENT KNOWLEDGE OF THE LAW.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

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Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

GROUNDS ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, AND EIGHT
I DID NOT PRESENT THEM IN COURT BECAUSE I
WAS SUFFERING UNTREATED MENTAL ILLNESS AND I
DID NOT HAVE SUFFICIENT KNOWLEDGE OF THE LAW

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- 14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

- 15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

DAVID BENNOWITZ AND RAMY BARBERI, WASHINGTON, DC

(b) At the arraignment and plea:

DAVID BENNOWITZ AND RAMY BARBERI, WASHINGTON, DC

(c) At the trial:

(d) At sentencing:

DAVID BENNOWITZ AND RAMY BARBERI, WASHINGTON, DC

(e) On appeal:

DAVID BENNOWITZ AND RAMY BARBERI, WASHINGTON, DC

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

- 16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

- 17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

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18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

IF THIS MOTION ARRIVES AT THE COURT PAST THE SEPTEMBER 6, 2022 FILING DEADLINE, IT IS BECAUSE I HAVE BEEN PLACED UNDER SPECIAL ADMINISTRATIVE MEASURES (SAM) PER THE REQUEST OF THE U.S. ATTORNEY'S OFFICE TO THE BUREAU OF PRISONS SINCE JANUARY 27, 2022. SAM HAS RESTRICTED ALL COMMUNICATION, AND ALL MY CORRESPONDENCES MUST BE REVIEWED BY THE U.S. ATTORNEY'S OFFICE TO DETERMINE IF THEY ARE SUITABLE FOR RELEASE TO THE INTENDED RECIPIENT. IT IS A SLOW AND TEDIOUS PROCESS. IN ADDITION, SAM HAS SEVERELY LIMITED MY ACCESS TO LEGAL RESOURCES HINDERING THE PREPARATION OF THE PETITION.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

VACATE THE SENTENCE AND REVERSE THE CONVICTION

or any other relief to which movant may be entitled.

AND REMOVE THE 18 U.S.C. § 794 (a) AND (c) CHARGES AND ANY RELATED CHARGES THAT I SUBSEQUENTLY PLED GUILTY TO AND DISCHARGE FROM CUSTODY.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on AUGUST 17, 2022
(month, date, year)

Executed (signed) on AUGUST 15, 2022 (date)

Pete Doherty
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.