

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

United States of America,

v.

Case No. 1:22-cr-171-MLB

Carl Delano Torjagbo,

Defendant.

_____/

ORDER

In July 25, 2025, a jury convicted Defendant Carl Torjagbo of bank fraud, wire fraud, and money laundering. (Dkt. 226.) Defendant Torjagbo —while represented by counsel and prior to sentencing—filed a *pro se* motion to vacate or set aside his sentence pursuant to 28 U.S.C. § 2255. (Dkt. 240.) His lawyer moved to withdraw, and the Court granted that motion. (Dkts. 241, 242.) At Defendant Torjagbo’s request, the Court appointed new counsel to represent him. (Dkt. 243.) The Court also ordered new counsel to notify the Court whether Defendant Torjagbo wanted to proceed on his motion to vacate. (Docket Order dated

September 25, 2025.)¹ Counsel—via email that is not part of the docket—indicated Defendant Torjagbo wished to maintain his motion. The United States filed an opposition saying the motion is premature since the Court has not yet sentenced Defendant Torjagbo. (Dkt. 248.)

The United States is right. On its face, § 2255 applies to “[a] prisoner in custody *under sentence* of a court . . .” *See* 28 U.S.C. § 2255(a) (emphasis added). A court thus must dismiss as premature a § 2255 motion filed prior to sentencing. *See United States v. Casaran-Rivas*, 311 F. App’x 269, 273 (11th Cir. 2009) (§ 2255 motion filed before sentencing must be dismissed as premature because “§ 2255, and the relevant case law, instruct that the time for filing a § 2255 motion begins to run after the direct appeal process is complete”).² The Court has not yet sentenced

¹ Defendant Torjagbo filed another—nearly identical motion to vacate. (Dkt. 245.) The Court denied that motion since Defendant Torjagbo had not complied with the requirements of Local Criminal Rule 57.1(D)(3), which precludes a represented defendant in a criminal matter from filing pro se motions. (Dkt. 246.) *See also* LCrR 57.1(D)(3) (“Whenever a party has appeared by attorney, the party may not thereafter appear or act in the party’s own behalf in the action or proceeding or take any step therein unless the party has first given notice of the party’s intention to the attorney of record and to the opposing party and has obtained an order of substitution from the Court.”).

² The Court recognizes *Casaran-Rivas* is unpublished and not binding but cites it as instructive, nonetheless. *See Searcy v. R.J. Reynolds Tobacco Co.*, 902 F.3d 1342, 1355 n.5 (11th Cir. 2018) (“Unpublished

Defendant Torjagbo and thus dismisses his motion (Dkt. 240). The Court would also dismiss Defendant Torjagbo's motion to vacate for the same reason it dismissed his other motion to vacate: he is represented by counsel and this Court's Local Criminal Rules prevent him from filing pro se motions.

SO ORDERED this 23rd day of October, 2025.



MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE

cases do not constitute binding authority and may be relied on only to the extent they are persuasive.”).