

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 19, 2025

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN MANUEL CORTEZ-DIAZ,

Defendant - Appellant.

No. 25-3027
(D.C. No. 2:11-CR-20031-JWL-1)
(D. Kan.)

ORDER AND JUDGMENT*

Before **TYMKOVICH, BALDOCK**, and **FEDERICO**, Circuit Judges.

Juan Manuel Cortez-Diaz, a federal prisoner proceeding pro se,¹ appealed the district court's January 28, 2025, denial of his motion to reduce his sentence. In this initial motion to the district court, Cortez-Diaz requested a sentence reduction because he is "eligible for application of the sentencing amendments" to the U.S. Sentencing Guidelines and because the jury that

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

¹ Because Cortez-Diaz proceeds pro se, we construe his pleadings liberally; however, we will not act as his advocate. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

convicted him did not make the “requisite findings of fact regarding drug quantity.” R. I at 401. The district court denied his motion because the amendments were inapplicable, and it was without jurisdiction to consider the collateral attack on Cortez-Diaz’s conviction. Cortez-Diaz timely appealed.

On June 5, 2025, however, Cortez-Diaz informed this court that he was “withdrawing his motion to file a brief that’s due on June 11, 2025.” Doc. 11 at 1. In this same document, Cortez-Diaz stated that he would be filing a certificate of appealability about another case or issue.

On June 5, we instructed Cortez-Diaz to file a brief and all required documents. Doc. 12. We denied his motion “withdrawing his motion to file a brief” without prejudice, and instructed Cortez-Diaz to file a motion for voluntary dismissal of the appeal under Federal Rule of Appellate Procedure 42(b) by June 11, 2025. *Id.*

On June 10, Cortez-Diaz requested “[p]ermission to file [a] certificate of appealability under 28 U.S.C. § 2255[.]” Doc. 13 at 1.² We again instructed Cortez-Diaz to file an opening brief and a motion for leave to proceed in forma pauperis by June 23.

On June 30, Cortez-Diaz filed an opening brief along with a motion to proceed in forma pauperis. In his brief, Cortez-Diaz does not challenge the

² Cortez-Diaz filed two motions to vacate or correct his sentence under 28 U.S.C. § 2255 in 2015 and in 2017, which the district court denied.

district court's denial of his motion for a sentence reduction, but instead raises arguments under the Sixth Amendment regarding his sentence and whether a jury found him guilty beyond a reasonable doubt on Counts One, Four, and Five of the Indictment. Doc. 16-1 at 1. In failing to challenge the grounds for the district court's denial of his motion for a sentence reduction, Cortez-Diaz has waived any argument for reversing the district court's decision. *United States v. Barrera-Landa*, 964 F.3d 912, 918 n.5 (10th Cir. 2020).

Accordingly, we **AFFIRM**. To the extent necessary, we deny a certificate of appealability. Cortez-Diaz's motion for leave to proceed in forma pauperis is granted. All other pending motions are denied as moot.

Entered for the Court

Richard E.N. Federico
Circuit Judge