FILED
United States Court of Appeals
Tenth Circuit

March 30, 2017

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. CARLOS PEREZ, Defendant - Appellant.	No. 16-2271 (D.C. Nos. 2:16-CV-00545-RB-SMV and 2:04-CR-01308-RB-1) (D.N.M.)

ORDER
DENYING CERTIFICATE OF APPEALABILITY

Before **KELLY**, **MURPHY**, and **MATHESON**, Circuit Judges.

Defendant-Appellant Carlos Perez seeks a certificate of appealability ("COA") to appeal from the district court's denial of his motion to correct his sentence under 28 U.S.C. § 2255. Mr. Perez contends that the calculation of his sentencing guideline range relied on language found unconstitutionally vague in Johnson v. United States, 135 S. Ct. 2551 (2015). See U.S.S.G. § 4B1.2(a)(2). The district court found that Mr. Perez's status as a career offender resulted from the application of an enumerated offense (burglary of a dwelling) in § 4B1.2(a), not the language found wanting in Johnson. But even had that language been applied, the Supreme Court recently held that the void-for-vagueness holding in Johnson does not apply to the Sentencing Guidelines. Beckles v. United States,

No. 15-8544, 2017 WL 855781, at *6–7 (U.S. Mar. 6, 2017). Accordingly, we DENY Mr. Perez's request for a COA and DISMISS the appeal.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge