

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Zuniga v. United States

Zuniga · No. 22cr2090-LL-2; 23cv773-LL · Decided July 28, 2025

OPINION

Zuniga v. United States

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 JOSEPH ZUNIGA, Case Nos.: 22cr2090-LL-2; 23cv773-LL 12 Petitioner,

ORDER DENYING AS MOOT

13 v. MOTION TO VACATE, SET ASIDE,

OR CORRECT SENTENCE

14 UNITED STATES OF AMERICA,

PURSUANT TO 28 U.S.C. § 2255

15 Respondent. [ECF No. 220 in 22cr2090-LL-2; ECF 16 No. 1 in 23cv773-LL] 17 18 19
Pending before the Court is Petitioner Joseph Zuniga’s Motion to Vacate, Set Aside, 20 or Correct
his sentence pursuant to 28 U.S.C. § 2255. ECF No. 220.1 Respondent United 21 States of
America filed a Response in Opposition to Petitioner’s Motion. ECF No. 349. 22 Under Rule 4 of
the Rules Governing § 2255 Proceedings, this Court may dismiss a § 2255 23 motion if it “plainly
appears” from the motion, attached exhibits, and the record of prior 24 proceedings, that petitioner
is not entitled to relief. See Rule 4 of the Rules Governing § 25 2255 Proceedings; see also United
States v. Blaylock, 20 F.3d 1458, 1465 (9th Cir. 1994). 26 27 28 1 Having thoroughly considered
the parties’ briefing, the relevant record, and, in accordance 2 with Rule 4, the Court DENIES AS
MOOT Petitioner’s Motion.

3 I. BACKGROUND

4 Petitioner Zuniga filed the instant Motion on April 27, 2023 while he was in state 5 custody.
ECF No. 220 at 1, 6. Petitioner stated the reason for his Petition was to “attack[] 6 [the]
extradition hold (federal).” Id. at 1. Petitioner stated that the case number of the 7 judgment of the
conviction being challenged was 20cr3145-AJB. Id. Petitioner further 8 stated that the federal case
20cr3145-AJB was dismissed on March 17, 2021. Id. He stated 9 that the “grounds for relief” was
due to a “warrant in a closed close that was returned 10 executed but still shows as an active
warrant to the sheriffs[’] department violative of due 11 process.” Id. at 6. 12 As evidenced by the
docket in case number 20cr3145-AJB, Petitioner’s original 13 federal case was dismissed on

March 17, 2021. See Docket. The federal hold that Zuniga 14 is challenging in his Motion to Vacate was placed on him due to his indictment in a 15 subsequent criminal case, 22cr2090-LL. Within a few days of Petitioner Zuniga filing his 16 Motion to Vacate, on May 3, 2023, he was arraigned on the indictment in his new criminal 17 case (22cr2090-LL). ECF Nos. 226, 228. Petitioner Zuniga ultimately pled guilty in the 18 new criminal case. ECF No. 306. On February 26, 2024, Petitioner Zuniga was sentenced 19 to custody by the Court, at the Bureau of Prisons for a term of 30 months. ECF Nos. 319, 20 322. Zuniga's projected release date was on May 7, 2025. Id.

21 II. DISCUSSION

22 A federal prisoner making a collateral attack against the validity of his conviction or 23 sentence must do so by way of a motion to vacate, set aside, or correct the sentence pursuant 24 to 28 U.S.C. § 2255. Section 2255 states: 25 A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was 26 imposed in violation of the Constitution or law of the United States, or that 27 the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise 28 1 subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence. 2 3 28 U.S.C. § 2255(a). Section "2255 encompasses a prisoner's claim of 'the right to be 4 released upon the ground that the sentence was imposed in violation of the Constitution or 5 laws of the United States.'" Davis v. United States, 417 U.S. 333, 344-45 (1974) (quoting 6 Section 2255).

7 "The Supreme Court has repeatedly stressed the limits of a § 2255 motion." United 8 States v. Berry, 624 F.3d 1031, 1038 (9th Cir. 2010). "Where the moving party does not 9 allege a lack of jurisdiction or constitutional error, there is no basis for collateral relief 10 under § 2255 unless the claimed error constituted a fundamental defect which inherently 11 results in a 'complete miscarriage of justice.'" United States v. Wilcox, 640 F.2d 970, 972- 12 73 (9th Cir. 1981) (quoting United States v. Addonizio, 442 U.S. 178, 185 (1979)). "For 13 example, the [Supreme] Court has cautioned that § 2255 may not be used as a chance at a 14 second appeal." Berry, 624 F.3d at 1038 (citing Addonizio, 442 U.S. at 184). "In United 15 States v. Zazzara, 626 F.2d 135 (9th Cir. 1980), we held that the use of perjured testimony 16 to obtain an indictment did not constitute a claim for § 2255 relief." Wilcox, 640 F.2d at 17 973. "Further, short of proof of actual innocence, claims solely based on new evidence are 18 generally not cognizable on habeas." Berry, 624 F.3d at 1038 (citing Conley v. United 19 States, 323 F.3d 7, 14 (1st Cir. 2003) (en banc) ("Merely to claim that new evidence casts 20 doubt, even grave doubt, on the correctness of a conviction is not a ground for relief on 21 collateral attack.")). "Rather, a motion under § 2255 must be based upon an independent 22 constitutional violation." Id. (citing Herrera v. Collins, 506 U.S. 390, 400 (1993) 23 ("[N]ewly discovered evidence ... alleged in a habeas application ... must bear upon the 24 constitutionality of the applicant's detention; the existence merely of newly

discovered 25 evidence relevant to the guilt of a state prisoner is not a ground for relief on federal habeas 26 corpus.”)). 27 In Petitioner’s Section 2255 Motion, Zuniga fails to allege any constitutional 28 violation or violation of any other federal law. Based on the Court’s review of the record, | /it appears that Petitioner was mistaken in his assertion that the federal hold was placed on 2 in his previously closed case (20cr3145-AJB), as it is evident from the record that it 3 || was placed on him in connection with the new federal case. Not only was Zuniga’s Section 4 Motion filed well before he was sentenced in the instant federal criminal case, it was 5 || filed before he was even arraigned on the indictment in the federal criminal case. 6 || Additionally, Petitioner’s purported challenge to a federal extradition hold is no longer 7 || applicable given that he pled guilty in his criminal case, 22cr2090-LL. Accordingly, 8 || Petitioner’s Section 2255 Motion is DENIED AS MOOT. 9 A certificate of appealability 1s authorized “if the applicant has made a substantial 10 || showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Zuniga has failed 11 |to allege that he has been denied any constitutional right. A certificate of appealability is 12 || denied. 13 IT IS SO ORDERED. 14 || Dated: July 28, 2025 NO 15 DE 16 Honorable Linda Lopez 7 United States District Judge 18 19 20 21 22 23 24 25 26 27 28