

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

United States v. Dominguez

Dominguez · No. Nos. 19-8021 & 19-8022 · Decided June 2, 2021

SUMMARY

The Tenth Circuit affirmed the District of Wyoming’s denial of Christopher Dominguez’s motion to withdraw his guilty plea. The court held that Dominguez knowingly and intelligently entered the plea and received the required close assistance of counsel, despite the First Step Act’s change to the stacking provision of 18 U.S.C. § 924(c) on the day of his plea hearing.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Jerome A. Holmes; Michael R. Lucero; Allison H. Eid
JURISDICTION	Federal
DECIDED	June 2, 2021
DOCKET	Nos. 19-8021 & 19-8022
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the district court's denial of his presentence motion to withdraw his guilty plea.
STANDARD OF REVIEW	Abuse of discretion for denial of a motion to withdraw a guilty plea; legal conclusions, including whether the plea was knowing and voluntary or counsel was ineffective, are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Christopher Dominguez v. United States of America

TOPICS

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QUESTIONS PRESENTED

1. Whether Dominguez's guilty plea was not knowing and intelligent because he did not understand the First Step Act's effect on potential penalties for dismissed charges.
2. Whether Dominguez was denied close assistance of counsel because counsel failed to account for the impending enactment of the First Step Act during plea negotiations.
3. Whether the district court abused its discretion by denying Dominguez's motion to withdraw his guilty plea.

HOLDINGS

1. A defendant's guilty plea is knowing and intelligent when the defendant understands the direct consequences of the charges to which he pleads guilty; a misunderstanding concerning potential penalties for charges that were dismissed and to which the defendant did not plead guilty did not invalidate Dominguez's plea, particularly where the district court conducted a thorough Rule 11 colloquy and made no misstatement about those dismissed charges.
2. Assuming the close-assistance claim is governed by Strickland, Dominguez failed to establish prejudice because he did not show a reasonable probability that, absent counsel's alleged failure to account for the First Step Act, he would have rejected the favorable plea agreement and insisted on trial.
3. The district court did not abuse its discretion in concluding that Dominguez had not shown a fair and just reason to withdraw his guilty plea.

KEY QUOTATIONS

“The longstanding test for determining the validity of a guilty plea is ‘whether the plea represents [inter alia] a[n] . . . intelligent choice among the alternative courses of action open to the defendant.’” (20)

“Accordingly, we AFFIRM the district court’s judgment.” (58)

FACTUAL BACKGROUND

Dominguez was charged in connection with armed pharmacy robberies in New Mexico and Wyoming, including three alleged violations of 18 U.S.C. § 924(c). Before the First Step Act, the government could seek stacked mandatory minimum sentences totaling sixty years if he were convicted on all three § 924(c) charges.

Dominguez entered a plea agreement providing for a twenty-eight-year sentence in exchange for guilty pleas to four charges and dismissal of the remaining charges. The First Step Act, enacted on the day of his plea hearing, changed the stacking provision so that the twenty-five-year enhancement applied only when a prior § 924(c) conviction had become final, and Dominguez later sought to withdraw his plea.

PROCEDURAL HISTORY

Federal grand juries in New Mexico and Wyoming charged Dominguez with robbery, firearm, drug, and related offenses. After the cases were transferred and consolidated for plea purposes, Dominguez entered a Rule 11(c) (1)(C) plea agreement requiring a total sentence of twenty-eight years, and the government dismissed other charges. The First Step Act was enacted on the same day as his change-of-plea hearing. Dominguez moved to withdraw his plea, arguing that it was not knowing and intelligent and that counsel failed to provide close assistance; the district court denied the motion, and the Tenth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- United States v. Contreras-Ramos, 457 F.3d 1144, 1145 (10th Cir. 2006)
- United States v. Calderon, 428 F.3d 928, 930-31 (10th Cir. 2005)
- United States v. Clark, 415 F.3d 1234, 1237 n.1 (10th Cir. 2005)
- United States v. Gigot, 147 F.3d 1193, 1199 (10th Cir. 1998)
- United States v. Muhammad, 747 F.3d 1234, 1239-40 (10th Cir. 2014)
- United States v. Dunbar, 718 F.3d 1268, 1279 (10th Cir. 2013)
- United States v. Vidal, 561 F.3d 1113, 1119 (10th Cir. 2009)
- Gonzales v. Tafoya, 515 F.3d 1097, 1118 (10th Cir. 2008)
- United States v. Byrum, 567 F.3d 1255, 1259 (10th Cir. 2009)
- United States v. Yazzie, 407 F.3d 1139, 1142 (10th Cir. 2005)
- United States v. Siedlik, 231 F.3d 744, 748 (10th Cir. 2000)
- United States v. Marceleno, 819 F.3d 1267, 1272, 1276 (10th Cir. 2016)
- United States v. Hamilton, 510 F.3d 1209, 1214-16 (10th Cir. 2007)
- United States v. Sanchez-Leon, 764 F.3d 1248, 1258-62 (10th Cir. 2014)
- United States v. Sandoval, 390 F.3d 1294, 1298 (10th Cir. 2004)
- United States v. Garcia, 577 F.3d 1271, 1274 (10th Cir. 2009)
- United States v. Soto, 660 F.3d 1264, 1267 (10th Cir. 2011)
- United States v. Lopez-Avila, 665 F.3d 1216, 1219 (10th Cir. 2012)
- Bousley v. United States, 523 U.S. 614, 618 (1998)
- United States v. Avila, 733 F.3d 1258, 1261 (10th Cir. 2013)
- United States v. Carr, 80 F.3d 413, 416 (10th Cir. 1996)
- United States v. Krejcarek, 453 F.3d 1290, 1296 (10th Cir. 2006)
- United States v. Gomez-Cuevas, 917 F.2d 1521, 1525 (10th Cir. 1990)
- Blackledge v. Allison, 431 U.S. 63, 74 (1977)
- Hedman v. United States, 527 F.2d 20, 22 (10th Cir. 1975) (per curiam)
- United States v. Guerra, 94 F.3d 989, 994-95 (5th Cir. 1996)
- United States v. De La Torre, 940 F.3d 938 (7th Cir. 2019)
- United States v. Frownfelter, 626 F.3d 549, 554-57 (10th Cir. 2010)
- Richison v. Ernest Group, Inc., 634 F.3d 1123, 1130-31 (10th Cir. 2011)
- Strickland v. Washington, 466 U.S. 668, 687-88, 694, 697 (1984)
- Cullen v. Pinholster, 563 U.S. 170, 189 (2011)
- Missouri v. Frye, 566 U.S. 134, 148 (2012)

- United States v. Kramer, 168 F.3d 1196, 1201 (10th Cir. 1999)
- Harrington v. Richter, 562 U.S. 86, 111-12 (2011)
- United States v. Miller, 262 F.3d 1066, 1072 (10th Cir. 2001)
- United States v. Heard, 728 F.3d 1170, 1183-86 (10th Cir. 2013)
- Lee v. United States, 137 S. Ct. 1958, 1967 (2017)
- United States v. Richison, 634 F.3d 1123, 1130-31 (10th Cir. 2011)

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