

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

United States v. Jesus Beltran-Leon

No. 19-2615, United States Court of Appeals for the Seventh Circuit (August 13, 2021)

SUMMARY

The Seventh Circuit affirmed a 28-year sentence for a high-level Sinaloa Cartel lieutenant, rejecting claims that the district judge violated due process by referencing his own Mexican ethnicity and expressing personal hurt about cartel violence, as the remarks did not affect the substantially below-guidelines sentence. The court held that the judge's use of an undisclosed article about Mexican military deaths was forfeited and not plain error because it did not adversely affect the sentence, and that the judge did not improperly draw a negative inference from the defendant's failure to testify. The court also rejected a recusal claim under 28 U.S.C. § 455(a) for plain error, finding the judge's comments did not demonstrate bias making fair judgment impossible.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Rovner; Easterbrook; Wood
JURISDICTION	Federal
DECIDED	August 13, 2021
DOCKET	19-2615
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a criminal sentence after guilty plea.
STANDARD OF REVIEW	Constitutional challenges to a sentence are reviewed de novo. Sentencing decisions are reviewed for reasonableness under an abuse of discretion standard. Procedural errors are reviewed de novo. Findings of fact are reviewed for clear error. Forfeited issues are reviewed for plain error.
PRECEDENTIAL VALUE	Published
PARTIES	Jesus Raul Beltran-Leon v. United States of America

TOPICS

- criminal procedure
- sentencing
- appellate procedure
- due process
- fifth amendment

PRACTICE AREAS

criminal

appellate

QUESTIONS PRESENTED

1. Whether the district judge violated Beltran's due process rights by considering his own ethnicity in setting the sentence.
2. Whether the district judge improperly considered an undisclosed article about Mexican military deaths in determining the sentence.
3. Whether the district court failed to adequately explain the basis for the sentence.
4. Whether the district court improperly drew a negative inference from Beltran's failure to testify at sentencing, violating his Fifth Amendment rights.
5. Whether the district judge should have recused under 28 U.S.C. § 455(a) due to alleged bias.

HOLDINGS

1. The district court provided a more than adequate explanation for the sentence, considering the §3553(a) factors and the parties' arguments.
2. The judge's remarks about his Mexican heritage and personal hurt did not affect the sentence and therefore did not violate due process.
3. Beltran forfeited the objection by not raising it below, and under plain error review, the article did not adversely affect the sentence.
4. The court did not hold the failure to testify against Beltran; it merely noted that the affidavit was insufficient without corroboration, and the court ultimately credited the claim of mistreatment.
5. Beltran did not meet the plain error standard; the judge's remarks did not show bias that made fair judgment impossible.

KEY QUOTATIONS

"So you decided to involve yourself in [the conspiracy], and, yes, today you do make a statement which I want to rely on in terms of how much you have reformed, but I am unsure as to how much you really, really have reformed. I cannot calculate that. What I do know is that you were a serious drug conspirator at a high level, and I need to sentence you accordingly. The elephant in the room is this allegation of torture by Mexican Marines, and it is hard for me to get a handle on that because there's no clear proof. ... So at the end of the day, I do agree with Mr. Brindley that Mr. Beltran Leon's sentence should be somewhat modified downward because of what may have occurred because the end doesn't justify the means. So at the end of the day, I believe the sentence that is appropriate for Mr. Beltran Leon, because of his involvement in this significant drug conspiracy that breeds nothing but harm to this country ... I'm going to sentence Mr. Beltran Leon to 28 years in the custody of the Attorney General. That is what I believe is a sufficient-but-no-greater-than-necessary sentence, a sentence of 336 months in custody." (at 13-15)

"So I repeat, Mexico is tired of this violence, and so is the United States. ... So at the end of the day, I do agree with Mr. Brindley that Mr. Beltran Leon's sentence should be somewhat modified downward because of what

may have occurred because the end doesn't justify the means.” (at 16)

“I have not held that against the defendant, but I just wanted to clarify that he put forth an affidavit, and there were some holes in that affidavit the way I saw it in terms of who did what, and there was just no opportunity to buttress that in any sense, but I understand he has a right not to testify.” (at 22-23)

FACTUAL BACKGROUND

Beltran was a high-level lieutenant in a Sinaloa Cartel cell, coordinating the movement of large quantities of drugs and collecting payments. He pleaded guilty to conspiracy. The district court adopted the government's drug quantity calculation (over 450 kg cocaine, 10 kg heroin) and applied several enhancements, resulting in a guidelines level of 43 (capped) and a recommended sentence of life. Beltran argued in mitigation that he was tortured by Mexican authorities, which should affect the §3553(a) factors. The court credited that he was severely mistreated and sentenced him to 28 years, substantially below the guidelines range and the government's request of 35 years.

PROCEDURAL HISTORY

Beltran pleaded guilty to conspiracy to possess with intent to distribute controlled substances. The district court calculated a guidelines range of life imprisonment but sentenced him to 28 years after considering his claim of torture by Mexican authorities. Beltran appeals, challenging the sentence on due process, procedural, and recusal grounds.

DISPOSITION

affirmed

CASES CITED

- Gall v. United States, 552 U.S. 38 (2007)
- Rita v. United States, 551 U.S. 338 (2007)
- United States v. Fletcher, 763 F.3d 711 (7th Cir. 2014)
- United States v. Brucker, 646 F.3d 1012 (7th Cir. 2011)
- United States v. McLaughlin, 760 F.3d 699 (7th Cir. 2014)
- United States v. Griffith, 913 F.3d 683 (7th Cir. 2019)
- United States v. Knox, 624 F.3d 865 (7th Cir. 2010)
- United States v. Mykytiuk, 415 F.3d 606 (7th Cir. 2005)
- United States v. Olson, 450 F.3d 655 (7th Cir. 2006)
- United States v. Stephens, 986 F.3d 1004 (7th Cir. 2021)
- United States v. Adams, 879 F.3d 826 (7th Cir. 2018)
- United States v. Betts, 576 F.3d 738 (7th Cir. 2009)
- Tobey v. Chibucos, 890 F.3d 634 (7th Cir. 2018)
- Puckett v. United States, 556 U.S. 129 (2009)

- United States v. Hathaway, 882 F.3d 638 (7th Cir. 2018)
- United States v. Perez, 956 F.3d 970 (7th Cir. 2020)
- United States v. Atwood, 941 F.3d 883 (7th Cir. 2019)
- Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988)
- Liteky v. United States, 510 U.S. 540 (1994)
- Zant v. Stephens, 462 U.S. 862 (1983)
- Franklin v. McCaughtry, 398 F.3d 955 (7th Cir. 2005)
- United States v. Traxler, 477 F.3d 1243 (10th Cir. 2007)
- United States v. Olano, 507 U.S. 725 (1993)
- United States v. Young, 470 U.S. 1 (1985)