

Appendix A

United States Court of Appeals For the First Circuit

No. 19-1915

JONATHAN ORTIZ-TORRES,

Petitioner - Appellant,

v.

UNITED STATES,

Respondent - Appellee.

Before

Howard, Chief Judge,
Torruella and Thompson, Circuit Judges.

JUDGMENT

Entered: July 8, 2020

Petitioner seeks a certificate of appealability ("COA") in relation to the district court's denial of a 28 U.S.C. § 2255 motion featuring, *inter alia*, a challenge to his 18 U.S.C. § 924(c) and (j) conviction under Johnson v. United States, 135 S. Ct. 2551 (2015) (Johnson II), and related precedent. In United States v. Garcia-Ortiz, this court ruled that the 18 U.S.C. § 1951 Hobbs Act robbery predicate offense undergirding petitioner's § 924(c) and (j) conviction categorically satisfies the § 924(c)(3)(A) force clause. See 904 F.3d 102 (1st Cir. 2018), cert. denied, 139 S. Ct. 1208 (2019). With that same decision, this court ruled that the aiding-and-abetting nature of a predicate offense does not alter the required categorical analysis. See id. at 109. Petitioner's challenge to his § 924(c) and (j) conviction is foreclosed by this precedent. This is true even after the Supreme Court's decision in United States v. Davis, through which the Court deemed the § 924(c)(3)(B) residual clause unconstitutionally vague. See 139 S. Ct. 2319 (2019); see also Hunter v. United States, 873 F.3d 388, 390 n.2. (1st Cir. 2017) (conclusion that offense satisfies force clause renders any challenge to residual clause irrelevant).

With his district court filings and with his application filed here, petitioner pursued several additional claims. We have considered those claims carefully and conclude that the district court properly rejected them. Thus, we conclude, after review of petitioner's filings and relevant portions of the record, that the district court's ultimate denial of § 2255 relief was neither debatable nor wrong. See Slack v. McDaniel, 529 U.S. 473, 484 (2000) (COA standard).

Accordingly, the application for COA is denied, any pending motions are denied as moot, and this appeal is terminated.

By the Court:

Maria R. Hamilton, Clerk

cc:

Honorable Gustavo A. Gelpi

Maria Antongiorgi Jordan, Clerk, United States District Court for the District of Puerto Rico

Jonathan Ortiz-Torres

Mariana E. Bauza Almonte

Appendix B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

JONATHAN ORTIZ-TORRES,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

Case No. 19-1031 (GAG)

JUDGMENT

Pursuant to the Court's Order at Docket No. 9, Judgment is hereby entered **DISMISSING** Petitioner's 2255 Motion to Vacate, Set Aside or Correct Sentence.

SO ORDERED.

In San Juan, Puerto Rico this 13th day of May, 2019.

s/ Gustavo A. Gelpí
GUSTAVO A. GELPI
United States District Judge