

Appendix A

United States Court of Appeals
for the Fifth Circuit

No. 19-40401

UNITED STATES OF AMERICA,

Plaintiff — Appellee,

versus

ENRIQUE E. QUINTANA,

Defendant — Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No: 6:18-CV-191

ON PETITION FOR REHEARING

Before HIGGINBOTHAM, SOUTHWICK, and WILLETT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

ENTERED FOR THE COURT:

/s/ Leslie H. Southwick
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-40401

United States Court of Appeals
Fifth Circuit

FILED

March 30, 2020

D.C. Docket No. 6:18-CV-191

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ENRIQUE E. QUINTANA,

Defendant - Appellant

Appeal from the United States District Court for the
Eastern District of Texas

Before HIGGINBOTHAM, SOUTHWICK, and WILLETT, Circuit Judges.

JUDGMENT

This cause was considered on the record on appeal.

It is ordered and adjudged that the appeal is dismissed.



Certified as a true copy and issued
as the mandate on May 22, 2020

Attest:

Lyle W. Cayce

Clerk, U.S. Court of Appeals, Fifth Circuit

Appendix B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

March 30, 2020

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellant

v.

ENRIQUE E. QUINTANA,

Defendant-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:18-CV-191

Before HIGGINBOTHAM, SOUTHWICK, and WILLETT, Circuit Judges.

PER CURIAM:*

Enrique E. Quintana, federal prisoner # 15321-035, pleaded guilty to three counts of production of child pornography, and the district court sentenced him to a total term of imprisonment of 708 months. Quintana seeks a certificate of appealability (COA) to appeal the denial of his 28 U.S.C. § 2255 motion to vacate, correct, or set aside his sentence. He argues that reasonable jurists could debate the district court's resolution of his claims of actual innocence, ineffective assistance of counsel related to prosecutorial misconduct

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

and voluntariness of his plea, and a substantively unreasonable sentence. Quintana claims that the district court erred in determining that his guilty plea waived his challenges to nonjurisdictional defects in the proceedings and argues that it should have considered the merits of all of his claims. He asserts that the district court also erred by not considering evidence related to his Fourth Amendment claim.

To obtain a COA as to the district court's denial of his § 2255 motion, Quintana must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To satisfy this standard, the movant must show "that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Quintana has not made the requisite showing. See *id.*

In addition, Quintana asserts that the district court should have held an evidentiary hearing on his § 2255 motion. However, he failed to brief the issue and it is therefore abandoned. *Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999); *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Quintana's motion for a COA is DENIED. A COA is not required to appeal the denial of an evidentiary hearing in a federal habeas proceeding. See *Norman v. Stephens*, 817 F.3d 226, 234 (5th Cir. 2016) (§ 2254 case). Quintana's request for a COA on the evidentiary hearing issue is DENIED as unnecessary and the appeal is DISMISSED as to that claim.

Appendix C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ENRIQUE E. QUINTANA, #15321-035 §
VS. § CIVIL ACTION NO. 6:18cv191
UNITED STATES OF AMERICA § CRIM NO. 6:11cr25

ORDER OF DISMISSAL

Movant Enrique Quintana, a federal prisoner confined at the United States Penitentiary in Tucson, Arizona, brings this motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The motion was referred to the United States Magistrate Judge, the Honorable Judge John D. Love, for findings of fact, conclusions of law, and recommendations for disposition of the case.

The court has conducted a careful *de novo* review of record and the Magistrate Judge's proposed findings and recommendations. *See* 28 U.S.C. §636(b)(1) (District Judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Upon such *de novo* review, the court has determined that the Report of the United States Magistrate Judge is correct and Movant's objections are without merit. Accordingly, it is

ORDERED that Movant's objections, (Dkt. #18), are overruled and the Report of the Magistrate Judge, (Dkt. #9), is **ADOPTED** as the opinion of the District Court. It is also

ORDERED that the above-styled civil action is **DISMISSED** with prejudice. Moreover, it is

ORDERED that Movant Quintana is **DENIED** a certificate of appealability *sua sponte*.

Finally, it is

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ENRIQUE E. QUINTANA, #15321-035 §
VS. § CIVIL ACTION NO. 6:18cv191
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FINAL JUDGMENT

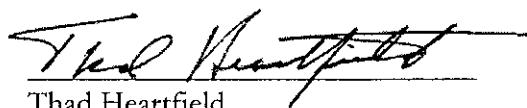
The court having considered Movant's case and rendered its decision by opinion issued this same date, it is hereby **ORDERED** that Movant's case is **DISMISSED** with prejudice.

SIGNED this the 4 day of April, 2019.

Thad Heartfield
Thad Heartfield
United States District Judge

ORDERED that any and all motions which may be pending in this civil action are hereby
DENIED.

SIGNED this the 4 day of April, 2019.



Thad Heartfield
Thad Heartfield
United States District Judge