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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2023

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ANGEL VAZQUEZ-FIGUEROA, *Petitioner*

v.

UNITED STATES OF AMERICA, *Respondent*

**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIRST CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

Petitioner, ANGEL VAZQUEZ-FIGUEROA, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit in this case.

OPINION BELOW

A copy of the judgment and opinion of the United States Court of Appeals for the First Circuit in this case is included in appendix A.

JURISDICTION

The United States Court of Appeals for the First Circuit entered its judgment on December 22, 2022. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1254(1), which grants the United States Supreme Court jurisdiction to review by writ of certiorari all final judgments of the courts of appeals.

STATUTORY PROVISIONS INVOLVED

The Petitioner was indicted for violations of Title 18 U.S.C. § 1951, interference with commerce by robbery and Title 18 U.S.C. § 924(c) for brandishing a firearm. The 18 U.S.C. § 3553(a) sentencing factors.

STATEMENT

On January 20, 2016, the Petitioner pleaded guilty to Count's One and Two of the Indictment in case no. 15-498 (ADC) and to count one of the indictment in case no. 15-528 (CCC) pursuant to the terms of the Plea Agreement accorded under the provisions of Federal Rules of Criminal Procedure, Rule 11(c)(1)(B). As to the three Counts, the parties agreed on a sentence recommendation from 12 years to 15 years of imprisonment. The parties also agreed that a 7 year minimum sentence must be imposed for count two in criminal case 15-498 (ADC), and that that sentence must be served consecutively with any other count of conviction.

The parties did not stipulate as to any Criminal History Category for the Defendant-Appellant.

In regard to sentencing, the parties agreed that the Petitioner was allowed to request a sentence of no less than 12 years and the Government could request a sentence of 15 years of imprisonment, when combined with the 7 year minimum sentence of imprisonment as to count two in criminal case 15-498(ADC).

The Petitioner knowingly and voluntarily agreed that, if the imprisonment sentence imposed by the Court is in accordance with the terms and conditions set forth in the sentence recommendation of the plea agreement.

The district court judge imposed an imprisonment term of one hundred and ninety-nine (199) months, that is 16 years and a half. The district courts sentence is one year and a half longer than the highest sentence recommended by the parties.

REASONS FOR GRANTING THE WRIT

The Court of Appeals issued a judgment in which concluded that:

“...We review Vazquez-Figueroa's procedural reasonableness challenge for plain error, United States v. Ruiz- Huertas, 792 F.3d 223, 226 (1st Cir. 2015), and his substantive reasonableness claim for abuse of discretion, see United States v. Garcia-Mojica, 955 F.3d 187, 194 (1st Cir. 2020) (citing Holguin- Hernandez v. United States, -- U.S. --, 140 S. Ct. 762, 766-67 (2020)).

Assuming, without deciding, that Vazquez-Figueroa has not waived the claim and having carefully considered each of the procedural-reasonableness points raised in Vazquez-Figueroa's appellate brief, we discern no plain error. See United States v. Pabon, 819 F.3d 26, 33 (1st Cir. 2016) (finding waiver where defendant failed to address elements of plain error review in briefing). The district court expressly referenced and analyzed the 18 U.S.C. § 3553(a) factors and explained why it was imposing the sentence in light of those factors. See United States v. Flores-Quinones, 985 F.3d 128, 134 & n.4 (1st Cir. 2021) (no procedural error where district court expressly referenced and analyzed the § 3553(a) factors).

We also conclude that the district court's sentence was substantively reasonable under the circumstances and that the district court provided a "plausible sentencing rationale" and reached a "defensible result." See United States v. Gomera-Rodriguez, 952 F.3d 15, 20 (1st Cir. 2020) ("Challenging a sentence as substantively unreasonable is a burdensome task in any case, and one that is even more burdensome where, as here, the challenged sentence is within a properly calculated GSR.") (internal quotations omitted)."

The Court of Appeals for the First Circuit was evasive in its opinion as to whether the Appellant waived his substantive reasonableness claim for abuse of discretion. Furthermore, the Court of Appeals incorrectly applied the plain error standard under Federal Rules of Criminal Procedure Rule 52. The court must

decide, in the exercise of discretion, if the district court's error seriously affected the fairness, integrity, and public reputation of judicial proceedings.

The district court erred by not taking into account the Petitioner's particular and extraordinary drug addiction and failing to make an individualized assessment based on the facts presented. The principle of fairness is central to the administration of justice.

The appellate court may also remand if the record does not adequately establish the reasoning employed by the judge to reach a discretionary decision.

CONCLUSION

For all of the foregoing reasons the petitioner, ANGEL VAZQUEZ-FIGUEROA, respectfully requests that this Court grant the petition for writ of certiorari, and accept this case for review. In the alternative, Mr. ANGEL VAZQUEZ-FIGUEROA requests that his petition be granted, his sentence vacated and his case remanded.

Respectfully submitted, in San Juan, Puerto Rico, on January 30, 2023.

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