

APPENDIX A

Order Denying Certificate of Appealability

United States v. Jaramillo, No. 22-50932

(Feb. 22, 2023)

United States Court of Appeals
for the Fifth Circuit

No. 22-50932

United States Court of Appeals
Fifth Circuit

FILED

February 22, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TOMAS JARAMILLO,

Defendant—Appellant.

Application for Certificate of Appealability
the United States District Court
for the Western District of Texas
USDC No. 1:21-CV-902
USDC No. 1-19-CR-318-8

ORDER:

Tomas Jaramillo, federal prisoner # 43818-480, seeks a certificate of appealability (COA) to challenge the denial of his 28 U.S.C. § 2255 motion challenging his conviction for conspiracy to distribute methamphetamine. Through counsel, he argues that trial counsel failed to consult with him adequately about whether he wished to file a direct appeal. He does not argue, as he argued in the district court, that his due process rights were violated due to an erroneously calculated base offense level and that trial counsel was ineffective for failing to follow Jaramillo's instruction to file a

notice of appeal and for failing to object to the drug amounts attributed to him in the presentence report. Accordingly, he has abandoned these issues. *See Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999); *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Beasley v. McCotter*, 798 F.2d 116, 118 (5th Cir. 1986).

Jaramillo has not shown that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see* 28 U.S.C. § 2253(c)(2). Accordingly, his COA motion is DENIED.

/s/ Catharina Haynes
CATHARINA HAYNES
United States Circuit Judge