

APPENDIX - A-1

## APPENDIX A

# United States Court of Appeals For the First Circuit

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No. 22-1159

JUAN J. ZUNIGA-BRUNO,

Petitioner - Appellant,

v.

UNITED STATES,

Respondent - Appellee.

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Before

Barron, Chief Judge,  
Lynch and Howard, Circuit Judges.

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## JUDGMENT

Entered: July 10, 2023

Appellant Juan J. Zuniga-Bruno noticed an appeal from a district court ruling granting 28 U.S.C. § 2255 relief in the form of vacatur of one of appellant's five convictions; specifically, the district court vacated appellant's conviction under 18 U.S.C. § 924(j) in light of United States v. Davis, 139 S. Ct. 2319 (2019), and related precedent. See 3:17-cv-01849-DRD Dkt. 22 (habeas judgment) & 23 (notice of appeal). Appellant did not notice an appeal from the amended judgment entered in the original criminal matter following the grant of habeas relief. See 3:99-cr-00295-DRD-1 Dkt. 620 (amended judgment). Appellant has filed his opening brief, and the government has filed a motion for summary disposition. We assume, in appellant's favor, that his choice to notice an appeal only in the habeas proceeding does not prevent the court from reviewing any of the specific points appellant presses on appeal.

Having considered each of the arguments appellant develops in his opening brief, we conclude that affirmance is in order. Contrary to appellant's suggestions in his papers, the district court did not run afoul of this court's mandate in Appeal 19-1616 by not conducting plenary resentencing. Additionally, appellant has failed to elucidate argument or precedent legitimately suggesting that, on this record, the district court was required to engage in full resentencing upon vacatur of the § 924(j) conviction. See United States v. Torres-Otero, 232 F.3d 24, 29-30 (1st Cir. 2000) ("We review the district court's determination of the appropriate remedy for a § 2255

violation for abuse of discretion."); see also United States v. Diaz, 670 F.3d 332, 344 (1st Cir. 2012) (whether to order full resentencing is discretionary call).

The government's motion for summary disposition is **GRANTED**, and the judgment of the district court is **AFFIRMED**.

By the Court:

Maria R. Hamilton, Clerk

cc:

Juan J. Zuniga-Bruno

Mariana E. Bauza Almonte

David Christian Bornstein

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JUAN J. ZUNIGA-BRUNO,

Petitioner - Appellant,

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UNITED STATES,

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Before

Barron, Chief Judge,  
Lynch, Howard, Kayatta  
Gelpí, Montecalvo and Rikelman, Circuit Judges.

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## ORDER OF COURT

Entered: August 14, 2023

Pursuant to First Circuit Internal Operating Procedure X(C), the petition for rehearing en banc has also been treated as a petition for rehearing before the original panel. The petition for rehearing having been denied by the panel of judges who decided the case and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

Juan J. Zuniga-Bruno  
Mariana E. Bauza Almonte  
David Christian Bornstein

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

JUAN J. ZUÑIGA-BRUNO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No.: 17-1849 (DRD)  
Related to Criminal Case No. 99-295 (DRD)

**JUDGMENT**

Pursuant to the *Order* at Docket No. 21, the Court hereby **GRANTS** Juan J. Zuñiga-Bruno's *Motion to Vacate Sentence Under 28 U.S.C. § 2255*. To that end, the Court hereby **DISMISSES** Count Two of the *Indictment* filed at Docket No. 1 in Criminal Case No. 99-295 and **VACATES** the life sentence imposed upon Petitioner through the *Amended Judgment* entered at Docket No. 521 of Criminal Case No. 99-295. Finally, as stated in the referenced *Order*, the Court will enter an *Amended Judgment* in Criminal Case No. 99-295 to adjust Petitioner's sentence accordingly.

**THIS CASE IS NOW CLOSED FOR ALL ADMINISTRATIVE AND  
STATISTICAL PURPOSES.**

**IT IS SO ORDERED, ADJUDGED AND DECREED.**

In San Juan, Puerto Rico, January 21, 2022.

*S/ Daniel R. Dominguez*  
Daniel R. Domínguez  
Senior U.S. District Judge