

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
SALCEDO,
Defendant.

Case No. 16-cr-00382-HSG-5

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS INDICTMENT
AND DENYING HIS MOTION FOR A
REDUCTION OF SENTENCE**

Re: Dkt. No. 1347; 1359

Defendant Joel Salcedo, proceeding pro se, has filed a motion for reduction of his sentence under 18 U.S.C. § 3582(c)(2) and § 1B1.10 of the United States Sentencing Guidelines based on Amendment 821. Dkt. No. 1359. As the Government explains, Defendant is ineligible for a sentencing reduction under these provisions because he did not receive any status points at sentencing, and he is not a zero-point offender. Dkt. No. 1363 (Government's opposition). Accordingly, the Court **DENIES** the motion.

Defendant has also filed a motion to dismiss the indictment, apparently claiming that (1) his prosecution violated the Speedy Trial Act and his Sixth Amendment right to a speedy trial; (2) the prosecution somehow committed misconduct in connection with the indictment returned by the grand jury; and (3) "discovery was not given to the defendant." Dkt. No. 1347. The Court DENIES the motion. Defendant was convicted following a jury trial, Dkt. No. 892, and the Ninth Circuit affirmed his conviction and sentence, Dkt. 1258. The Court then denied Defendant's motion to set aside his sentence, Dkt. No. 1302. Among the many arguments Defendant raised, and the Court rejected, in that motion was a claim that defense counsel provided ineffective assistance by improperly waiving Defendant's speedy trial rights. *Id.* at 7. The record conclusively reflects that time was properly excluded under the Speedy Trial Act, and this case did

1 not involve unconstitutional post-indictment delay. There is no basis in the record for the
2 requested relief as to Defendant's complaints about the grand jury process or the provision of
3 discovery either. So even assuming without deciding that dismissal of the indictment following a
4 jury trial, conviction and affirmance could be an available remedy, Defendant fails to establish any
5 basis for that remedy.

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7 **IT IS SO ORDERED.**

8 Dated: May 22, 2024



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10 HAYWOOD S. GILLIAM, JR.
United States District Judge

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 14 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOEL SALCEDO,

Defendant - Appellant.

No. 24-3651

D.C. No.

4:16-cr-00382-EXE-5

Northern District of California,
Oakland

ORDER

Appellant was incorrectly notified that fees were due. Appellant is not required to pay fees for this appeal because the district court found appellant to be indigent. *See* Fed. R. App. P. 24(a)(3). The docket has been amended to reflect appellant's in forma pauperis status.

This court's docket reflects that appellant is proceeding without counsel. Accordingly, appellant is responsible for preparing a pro se brief stating, in his own words, why he believes the district court's decision was incorrect.

The briefing schedule is reset as follows: Appellant's pro se opening brief is due on July 25, 2024. Appellant is not required to submit excerpts of record. *See* 9th Cir. R. 30-1.3.

Appellee's answering brief and supplemental excerpts of record are due August 26, 2024. The supplemental excerpts of record must contain all of the documents that are cited in appellant's pro se opening brief or otherwise required

by Rule 30-1.4, as well as the documents that are cited in appellee's brief. *See* 9th Cir. R. 30-1.3.

Appellant's optional pro se reply brief is due within 21 days after service of the answering brief.

If appellant does not file a timely pro se opening brief, the appeal may be dismissed for failure to prosecute. *See* 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

**Additional material
from this filing is
available in the
Clerk's Office.**