

DOCKET NO. _____

BEFORE THE UNITED STATES SUPREME COURT

LUIS FABIAN VELA

Petitioner/Appellant/Defendant,

VS.

UNITED STATES OF AMERICA

Respondent/Appellee/Plaintiff.

On Petition for Certiorari to the United States
Court of Appeals for the Fifth Circuit

On appeal from the United States District Court
for the Southern District of Texas, McAllen Division,
Honorable Micaela Alvarez, presiding.

MOTION FOR EXTENSION TO FILE PETITION FOR CERTIORARI

Directed to the Honorable Associate Justice Alito

Respectfully submitted,

Luis Fabian Vela
Reg. #39560-510
FCI Beaumont Texas
Post Office Box 26020
Beaumont, Texas 77720
Pro se'

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JURISDICTION

The Supreme Court of the United States has jurisdiction to hear this matter under 28 U.S.C §1254.

The Fifth Circuit Court of Appeals had jurisdiction to hear this appeal from the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. §1291.

The United States District Court for the Southern District of Texas had subject matter jurisdiction to hear alleged violations of Title 18, United States Code.

TO THE HONORABLE ASSOCIATE JUSTICE ALITO:

COMES NOW, Luis Fabian Vela (hereinafter "Vela"), and files this Motion for Extension of Time to File his Petition for Certiorari to the Fifth Circuit, and for leave thereon, and for just cause would show unto the Honorable Justice as follows:

RELIEF REQUESTED

1) Vela seeks an extension, until September 19, 2025 (60 days) to file his Petition for Certiorari with this Court. Vela, herewith, to the extent that leave is required, seeks leave to present this Motion for Extension.

FACTUAL JUSTIFICATION AND ARGUMENT

2) On March 13, 2025 the United States Court of Appeals for the Fifth Circuit denied Vela's appeal challenging the trial court's guideline calculation. (See Fifth Circuit opinion (March 13, 2025) attached as Appendix 1.)

3) On March 27, 2025 Vela timely filed his Petition for Rehearing En Banc.

4) On April 22, 2025 the Fifth Circuit denied Vela's Petition for Rehearing En Banc. (See Appendix 2.)

5) During trial and on appeal Vela had retained counsel.

6) Post denial of Rehearing En Banc, Vela continually sought access to his counsel to consult regarding the filing of a Petition for Certiorari to the Supreme Court of the United States. (See correspondence attached as Appendix 3.)

7) After an extensive delay caused by FCI-Beaumont-Low, Vela was Finally able to have a conference call with counsel. However, Vela's case manager, Ms. McCowan, and Counselor,

Bevil, while arranging the call, refused to allow Vela to have a privileged call with counsel. (See correspondence attached as Appendix 4.)

8) Additionally, in a blatant obstruction of justice, FCI-Beaumont-Low, through then Acting Warden Brown, refused Vela's access (from commissary) to items needed for his legal work. (See Appendix 5.) None of this was for any conduct related to Vela, but part of Acting Warden Brown's mass punishment methodology, obstructing justice thereby.

9) Out of frustration at FCI-Beaumont-Low and its staff obstructing Vela's access to counsel, and due to the 90 day time frame within which Vela must prepare and file his Petition for Certiorari with the Supreme Court, Vela sought to have the transcripts and sentencing memorandum sent to him by counsel. On June 4, 2025 counsel sent the transcripts to Vela, but FCI-Beaumont-Low did not deliver the transcripts to Vela until June 17, 2025. Vela then sent correspondence to his counsel (Ms. Orr) to obtain the sentencing memoranda so that he could prepare, pro se', his Petition for Certiorari (See Appendix 6.)

10) Because Vela has to use the mail system to correspond with his counsel and because of FCI-Beaumont-Low's systematic obstruction of his ability to consult with counsel and obtain the records (ROA) to prepare his Petition for Certiorari pro se', Vela seeks 60 days to prepare his Petition for Certorari.

11) Vela is confined, post trial, and is unable to consult with the United States to determine whether they are opposed to the relief requested herein.

12) Vela seeks this extension not for any improper purpose but for the reasons stated herein, under oath, and in the interest of justice.

MOTION FOR LEAVE

To the extent that leave is required to seek an extension prior to the filing of the Petition for Certiorari, Vela seeks leave to submit his Motion for Extension for the reasons set forth supra.

PRAYER

FOR THESE REASONS, Vela prays for an extension until September 19, 2025 to file his Petition for Certiorari, due to the obstruction caused by FCI-Beaumont-Low. Vela additionally prays for leave to submit his Motion for Extension.

Respectfully submitted,



Luis Fabian Vela
Reg. # 39560-510
FCI Beaumont Low
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Beaumont, Texas 77720
Pro se'

VERIFICATION

I hereby verify that the factual allegations in the Motion for Extension and Motion for Leave, to which this is attached, are within my personal knowledge and are true and correct to the best of my knowledge and belief.

I additionally verify that each item attached in the appendices are true and correct copies of correspondence with counsel and/or correspondence with the BOP's staff and representatives. I further verify that the material representations made in that correspondence, authored by me, are true and correct.

I make this verification under penalties of perjury and pursuant to 28 U.S.C. §1746.

JUNE 25, 2025
Date


Luis Fabian Vela
Reg. # 39560-510

APPENDIX INDEX

- APPENDIX 1) March 13, 2025, Judgement from the
Fifth Circuit Court of Appeals
- APPENDIX 2) April 22, 2025, Denial of En Banc
Fifth Circuit Court of Appeals
- APPENDIX 3) Correspondence
- APPENDIX 4) Correspondence
- APPENDIX 5) Correspondence
- APPENDIX 6) Correspondence

APPENDIX 1

March 13, 2025, Judgement from the
Fifth Circuit Court of Appeals

United States Court of Appeals for the Fifth Circuit

No. 24-40280
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 13, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LUIS FABIAN VELA,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:23-CR-199-1

Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

Luis Fabian Vela pleaded guilty to enticement of a minor to engage in sexual activity constituting a crime by any person, in violation of 18 U.S.C. § 2422(b). He was sentenced to 195 months of imprisonment and 10 years of supervised release. On appeal, Vela challenges the sufficiency of the factual basis for his guilty plea, the calculation of his guidelines range, and his prison

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 24-40280

term as violative of the Eighth Amendment. We do not consider his contentions on appeal that were raised for the first time in his reply brief. *See United States v. Aguirre-Villa*, 460 F.3d 681, 683 n.2 (5th Cir. 2006).

The district court did not clearly err in finding that Vela believed the minor victim to be younger than 18 years old, nor did it clearly err in concluding that he knowingly induced the minor victim to engage in criminal sexual activity, in light of his admissions at arraignment. *See United States v. Hildenbrand*, 527 F.3d 466, 475 (5th Cir. 2008); *United States v. Rounds*, 749 F.3d 326, 333 (5th Cir. 2014); *see also United States v. Lundy*, 676 F.3d 444, 450 (5th Cir. 2012). Vela has not shown that the factual basis for his guilty plea was insufficient. *See Hildenbrand*, 527 F.3d at 474-75.

Any error in the district court's application of the challenged sentencing enhancements under U.S.S.G. § 2G1.3 is harmless in light of its correct application of the cross-reference to U.S.S.G. § 2G2.1, the guideline ultimately used to calculate Vela's guidelines range. *See United States v. Chon*, 713 F.3d 812, 822 & n.7 (5th Cir. 2013). As to Vela's unpreserved arguments challenging the enhancement under § 2G2.1(b)(6)(B), he has failed to show plain error. *See United States v. Narez-Garcia*, 819 F.3d 146, 149-50 (5th Cir. 2016); U.S.S.G. § 2G2.1, comment. (n.1); 18 U.S.C. § 2256(2)(A)(v). Also, we find no error in the district court's application of the U.S.S.G. § 4B1.5(b)(1) enhancement. *See U.S.S.G. § 4B1.5*, comment. (n.4(A) & (B)); 18 U.S.C. § 2256(2)(A)(v) & (8)(A); *United States v. Sadeek*, 77 F.4th 320, 324, 326-27 (5th Cir. 2023), *cert. denied*, 144 S. Ct. 829 (2024).

Finally, on plain error review, Vela has not shown that his 195-month prison term violates the Eighth Amendment's prohibition against cruel and unusual punishment. *See United States v. Ayelotan*, 917 F.3d 394, 406-07 (5th Cir. 2019); *United States v. Farrar*, 876 F.3d 702, 715 (5th Cir. 2017).

The judgment of the district court is AFFIRMED.

APPENDIX 2

April 22, 2025, Denial of En Banc
Fifth Circuit Court of Appeals

United States Court of Appeals
for the Fifth Circuit

No. 24-40280

United States Court of Appeals
Fifth Circuit

FILED

April 22, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LUIS FABIAN VELA,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:23-CR-199-1

ON PETITION FOR REHEARING EN BANC

Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R.40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

April 22, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-40280 USA v. Vela
USDC No. 7:23-CR-199-1

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Roeshawn Johnson, Deputy Clerk
504-310-7998

Mr. Kristian Amundsen
Mr. Carlos Andres Garcia Sr.
Mr. Gerald Harris Goldstein
Ms. Katherine Lisa Haden
Ms. Carmen Castillo Mitchell
Mr. Nathan Ochsner
Ms. Cynthia Eva Hujar Orr

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