

Pertinent Part Copy Of
First Circuit's Copy of the Order Denying Appeal on August 7, 2025

"APPENDIX" A

United States Court of Appeals For the First Circuit

Nos. 23-1405
23-1520
23-1706

UNITED STATES,

Appellee,

v.

WILFREDO FELICIANO-RODRIGUEZ, a/k/a Wilfre,

Defendant - Appellant.

Before

Rikelman, Kayatta, and Aframe,
Circuit Judges.

JUDGMENT

Entered: August 7, 2025

In these consolidated appeals, defendant-appellant Wilfredo Feliciano-Rodriguez ("defendant") challenges the district court's orders denying various motions to dismiss his indictment, which defendant filed years after the conclusion of direct appeal and a first round of habeas proceedings under 28 U.S.C. § 2255. See Feliciano-Rodriguez v. United States, 986 F.3d 30, 38 (1st Cir. 2021) (affirming district court's denial of defendant's first § 2255 motion).

The government has moved for summary disposition. We agree with the government that the underlying motions constituted unauthorized second or successive § 2255 motions over which the district court lacked jurisdiction. See Trenkler v. United States, 536 F.3d 85, 98 (1st Cir. 2008) ("[T]he claim embodied in the petition is one cognizable in a section 2255 proceeding. Therefore, the district court should have recharacterized the petition as a section 2255 petition and proceeded accordingly."); see also Burton v. Stewart, 549 U.S. 147, 157 (2007) (district court lacks jurisdiction to entertain unauthorized second or successive petition); Bucci v. United States, 809 F.3d 23, 26 (1st Cir. 2015) ("We have interpreted [§ 2255(h)] as stripping the district court of jurisdiction over a second or successive habeas petition unless and until the court of appeals has decreed that it may go forward.") (internal quotation marks omitted); Barreto-Barreto v. United States, 551 F.3d 95, 100 (1st Cir. 2008) (resort to Federal Rule of Criminal Procedure 12(b)(3)(B) requires a pending criminal case; after the conclusion of direct appeal, § 2255 must be used for collateral attacks alleging jurisdictional defects or defects in the indictment). We **AFFIRM** the

district court's denials of relief on this basis. See Williams v. United States, 858 F.3d 708, 714 (1st Cir. 2017) (court may affirm on any basis apparent from the record).

Defendant's motion for appointment of counsel is **DENIED**. Any remaining pending motions or requests for relief, to the extent not mooted by the foregoing, are **DENIED**. Defendant's "Supplemental motion . . ." entered on April 11, 2024, was placed under provisional seal and will remain sealed.

By the Court:

Anastasia Dubrovsky, Clerk

Pertinent Part Copy Of
This Court's Petition Denial Invoking Rule 11 on October 6, 2025

"APPENDIX" B

Pertinent Part Copy Of
Copy of Petition, for Authorizing Second or Successive §2255

"APPENDIX" C

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Case No.: 3:04-cr-00052-PAD

WILFREDO FELICIANO-RODRIGUEZ
Petitioner/Defendant,

v.

UNITED STATES OF AMERICA
Respondent.

MOTION TO APPLY FOR AUTHORIZATION TO FILE
A SECOND OR SUCCESSIVE MOTION TO VACATE, SET
ASIDE OR CORRECT SENTENCE UNDER 28 U.S.C.
§2244(b)(3)(A) & 2255(h).

TO THE HONORABLE COURT:

Legal Standard

The Petitioner, Wilfredo Feliciano-Rodriguez, move, pro se, pursuant to 28 U.S.C. §2244(b)(3)(A) & 2255(h), respectfully for authorizing the filing of a second or successive motion under §2255 in the United States District Court for the District of Puerto Rico. Authorization shall be granted only if the motion relies on:

- (1) A new discovery of evidence that would establish innocence:
 - (A) Lack of Subject-Matter Jurisdiction
 - (B) Absentia Grand Jury's Accusation
 - (C) New evidence discovered in the criminal record that was concealed