

No. _____

IN THE
Supreme Court of the United States

OLEGARIO LARES-DE LA ROSA,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**APPLICATION REQUESTING AN EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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APPLICATION REQUESTING AN EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI

The petitioner, Olegario Lares-De La Rosa, by and through his court-appointed counsel, M. Edith Cunningham, Assistant Federal Public Defender, respectfully requests that the Honorable Justice Kagan grant an extension of time to file the petition for writ of certiorari pursuant to Supreme Court Rules 13.5 and 30. Petitioner asks the Court to extend the time for filing the petition for thirty-seven (37) days, from October 1, 2025, to November 7, 2025.

The judgment of the United States Court of Appeals for the Ninth Circuit was entered on March 27, 2025. Appendix A. The Court of Appeals denied Petitioner's petition for rehearing en banc on July 3, 2025. Appendix B.

The extension is requested because of undersigned counsel's conflicting professional obligations, including: the reply brief filed September 5 in Tenth Circuit No. 24-7081, preparation for a dispositive motion due September 30 in Ninth Circuit No. 24-7725, and a petition for rehearing due September 30 in Tenth Cir. No. 24-7050. Counsel will also be out of the office October 6-October 20 to handle matters related to a recent death in the family.

Petitioner therefore respectfully asks the Honorable Justice Kagan to extend the time for filing the petition for thirty-seven (37) days from October 1, 2025, to November 7, 2025.

RESPECTFULLY SUBMITTED September 19, 2025.

JON M. SANDS
Federal Public Defender
District of Arizona

s/ M. Edith Cunningham
M. Edith Cunningham
Counsel of Record
Assistant Federal Public Defender

APPENDIX A

United States v. Lares-De La Rosa, Not Reported in Fed. Rptr. (2025)

2025 WL 927183

Only the Westlaw citation is currently available.
United States Court of Appeals, Ninth Circuit.

UNITED STATES of America, Plaintiff - Appellee,
v.
Olegario LARES-DE LA ROSA, Defendant -
Appellant.

No. 23-1096

Submitted March 25, 2025* Phoenix, Arizona

FILED MARCH 27, 2025

* The panel unanimously concludes this case is suitable for decision without oral argument. See [Fed. R. App. P. 34\(a\)\(2\)](#).

Appeal from the United States District Court for the District of Arizona, [Jennifer G. Zipps](#), Chief District Judge, Presiding, D.C. No. 4:22-cr-00974-JGZ-JR-1

Attorneys and Law Firms

[Craig H. Russell](#), Serra Marie Tsethlikai Assistant U.S. Attorney, DOJ-United States Attorney's Office, Tucson, AZ, for Plaintiff-Appellee.

[M. Edith Cunningham](#), FPDaz—Federal Public Defender's Office, Tucson, AZ, [Christopher LeGrande Scileppi](#), Law Offices of Christopher L. Scileppi, Tucson, AZ, for Defendant-Appellant.

Before: GRABER and BENNETT, Circuit Judges, and [TUNHEIM](#), Senior District Judge.**

** The Honorable John R. Tunheim, United States Senior District Judge for the District of Minnesota, sitting by designation.

MEMORANDUM***

*** This disposition is not appropriate for publication and is not precedent except as provided by [Ninth Circuit Rule 36-3](#).

*1 Defendant Olegario Lares-De La Rosa participated in a conspiracy to kidnap migrants for the purpose of collecting ransom money from their relatives. Before trial, Defendant pleaded guilty to knowing possession of a firearm as a convicted felon. For his role in the scheme, a jury convicted Defendant of conspiracy to take hostages, conspiracy to transport aliens for profit, and transportation of aliens for profit. But the jury acquitted him of two counts of hostage-taking. The court imposed a sentence of 216 months. Defendant timely appeals his conviction and sentence, and we affirm.

1. Defendant first argues that the district court improperly instructed the jury on the charge of conspiracy to hostage-take. He asserts that the instructions did not clearly require the jury to find that Defendant knew that the object of the conspiracy was to take hostages, as distinct from transporting aliens for profit. We review for plain error because Defendant did not object to the instructions at trial. [United States v. Franklin](#), 321 F.3d 1231, 1240 (9th Cir. 2003). The court did not err, plainly or otherwise. The court used the Ninth Circuit's model instruction on conspiracy and made clear that the jury could not convict Defendant unless he knew that the purpose of the conspiracy was to take hostages. Moreover, the court gave a separate instruction for conspiracy to transport aliens for profit, making confusion even less likely.

In addition, Defendant speculates that the jury was confused because it acquitted him of the substantive hostage-taking charges. But Defendant's role was to drive hostages to a meeting place; he was not the actual kidnapper. So the jury's decision to acquit him of hostage-taking on the government's aiding-and-abetting theory is not necessarily inconsistent with its decision to convict on the conspiracy charge. See [United States v. Powell](#), 469 U.S. 57, 66–67 (1984) (stating that courts resist inquiring into a jury's thought process and do not assess a jury's rationale for potentially inconsistent verdicts).

We also are unpersuaded by Defendant's assertion that the government's closing heightened the risk of juror confusion. The government's closing argument did not misstate the elements of conspiracy to take hostages and, indeed,

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highlighted the difference between alien-smuggling and hostage-taking.

2. Next, Defendant argues that the district court erred by admitting Agent Gomez's lay opinion testimony and by failing to give a multiple-role instruction. We review for "clear abuse of discretion" the admissibility of lay opinion testimony under [Federal Rule of Evidence 701](#), [United States v. Gadson](#), 763 F.3d 1189, 1209 (9th Cir. 2014) (citation omitted), and find no abuse of discretion. Testimony based on a witness's perception—including the witness's interpretation of the meaning of a defendant's text messages examined by the witness during an investigation—is lay opinion testimony. [United States v. Barragan](#), 871 F.3d 689, 703–04 (9th Cir. 2017). That precisely describes Agent Gomez's testimony in this case.

*2 On appeal, Defendant challenges Gomez's testimony under [Federal Rule of Evidence 403](#). Reviewing this unpreserved claim for plain error, we find none. The record does not reveal undue prejudice.

Lastly, reviewing for plain error, we reject Defendant's argument that the district court should have given a multiple-role instruction. Gomez did not give expert testimony, so no such instruction was needed.

3. The district court did not plainly err by failing to hold that [18 U.S.C. § 922\(g\)\(1\)](#) is unconstitutional. Defendant expressly concedes this issue and raises it only for the purpose of preservation.

4. Finally, Defendant argues that the district court improperly imposed sentencing enhancements based on acquitted conduct. Again, Defendant expressly acknowledges that we have rejected this argument and that he raises it only to preserve it.

AFFIRMED.

All Citations

Not Reported in Fed. Rptr., 2025 WL 927183

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APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 3 2025

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OLEGARIO LARES-DE LA ROSA,

Defendant - Appellant.

No. 23-1096

D.C. No.

4:22-cr-00974-JGZ-JR-1

District of Arizona,

Tucson

ORDER

Before: GRABER and BENNETT, Circuit Judges, and TUNHEIM, District Judge.*

Judge Bennett has voted to deny Appellant's petition for rehearing en banc, and Judges Graber and Tunheim have so recommended.

The full court has been advised of Appellant's petition for rehearing en banc, and no judge of the court has requested a vote on it.

Appellant's petition for rehearing en banc, Docket No. 57, is DENIED.

* The Honorable John R. Tunheim, United States District Judge for the District of Minnesota, sitting by designation.