

APPENDIX CONTENTS

Appendix A: Order of the Fifth Circuit granting the motion to dismiss the appeal for lack of jurisdiction (Apr. 16, 2026)

Appendix B: Order of the Fifth Circuit denying rehearing en banc (May 14, 2026)

Appendix C: Order of the district court denying the motion to clarify and correct the record, ECF 1624 (July 29, 2025)

Appendix D: Order of the district court denying the Rule 59(e) motion, ECF 1626 (Oct. 7, 2025)

Appendix E: Order of the Fifth Circuit recalling and staying the mandate pending certiorari (May 29, 2026)

Appendix F: Constitutional and statutory provisions and rules involved (U.S. Const. amend. V; 28 U.S.C. §§ 753(f), 1291; Fed. R. App. P. 10; Fed. R. Crim. P. 36)

Appendix G: Petitioner's Motion to Clarify and Correct the Record, ECF 1622 (June 27, 2025), and motion for grant as unopposed, ECF 1623 (July 17, 2025)

Appendix H: Relevant docket entries evidencing the record deficiencies (Aug. 18, 2004 template minute entry; Jan. 27, 2005 docket entry; Sept. 9, 2004 equipment-malfunction minute entry; electronic-recording-only entries)

Appendix I: Diligence documents: CJA appellate counsel's letter of Mar. 28, 2006 (filed as Ex. 1 to ECF 1552); additional 2006 counsel correspondence; and petitioner's 2009 motion to compel citing *Britt v. North Carolina* (ECF 1056, filed June 8, 2009)

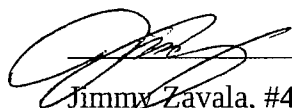
Appendix J: Chronology of petitioner's documented requests for records and transcripts, 2006–2025, compiled from the district court docket

Appendix K: Petitioner's petition for rehearing en banc, No. 25-50913 (5th Cir.), as filed

PROOF OF SERVICE AND DECLARATION OF TIMELY FILING

I, Jimmy Zavala, declare under penalty of perjury that on the 7 day of Aug, 2026, I deposited the foregoing Petition for a Writ of Certiorari, together with a motion for leave to proceed in forma pauperis, in the internal legal-mail system of Redgranite Correctional Institution, with first-class postage prepaid, addressed to the Clerk of the Supreme Court of the United States, 1 First Street, N.E., Washington, DC 20543, and that I served one copy on the Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001. See Sup. Ct. R. 29.2, 29.3; Houston v. Lack, 487 U.S. 266 (1988).

Executed on 8-7, 2026.



Jimmy Zavala, #49053-180

APPENDIX A

Order of the United States Court of Appeals for the Fifth Circuit granting
the motion to dismiss the appeal for lack of jurisdiction (April 16, 2026)

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 16, 2026

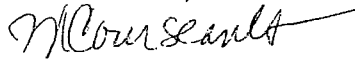
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 25-50913 USA v. Zavala
USDC No. 5:04-CR-425-2

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Melissa B. Courseault, Deputy Clerk
504-310-7701

Ms. Stephanie Frederique Cagniard
Mr. Zachary Carl Richter
Mr. Jimmy Zavala

United States Court of Appeals
for the Fifth Circuit

No. 25-50913

United States Court of Appeals
Fifth Circuit

FILED

April 16, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JIMMY ZAVALA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:04-CR-425-2

UNPUBLISHED ORDER

Before SMITH, HAYNES, and OLDHAM, *Circuit Judges*.

PER CURIAM:

IT IS ORDERED that Appellee's motion to dismiss appeal for lack of jurisdiction is GRANTED.

IT IS FURTHER ORDERED that Appellee's alternative request to dismiss the appeal as frivolous is DENIED as moot.

IT IS FURTHER ORDERED that Appellee's alternative request for an extension of thirty (30) days from the Court's denial of motion to dismiss

No. 25-50913

appeal for lack of jurisdiction or to dismiss as frivolous to file their brief is
DENIED as moot.

APPENDIX B

Order of the United States Court of Appeals for the Fifth Circuit denying
rehearing en banc (May 14, 2026)

United States Court of Appeals
for the Fifth Circuit

No. 25-50913

United States Court of Appeals
Fifth Circuit

FILED

May 14, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JIMMY ZAVALA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:04-CR-425-2

ON PETITION FOR REHEARING EN BANC

Before SMITH, HAYNES, and OLDHAM, *Circuit Judges*.

PER CURIAM:

Treating the petition for rehearing en banc as a motion for reconsideration (5TH CIR. R.40 I.O.P.), the motion for reconsideration 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 DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

July 29, 2025

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: NM
DEPUTY

UNITED STATES OF AMERICA

V.

JIMMY ZAVALA
#49053-180

§
§
§
§
§
§

SA-05-CR-425-OLG-2

ORDER

Before the Court are Movant Jimmy Zavala's *pro se* "Motion to Clarify and Correct the Record Under the Court's Inherent Authority and Federal Rule of Appellate Procedure 10(c) and 10(e), All Writs Act" (ECF No. 1622) and "Motion to Grant Motion to Clarify and Correct Record as Unopposed and Request for Prompt Ruling." (ECF No. 1623).

In 2005, Zavala was convicted of numerous drug, firearms, money laundering, and conspiracy offenses. His sentence includes a life term of imprisonment. The Fifth Circuit Court of Appeals affirmed the conviction and sentence on appeal. (ECF No. 955). This Court denied Zavala's motion pursuant to 28 U.S.C. § 2255 on the merits. (ECF Nos. 980 & 1160). Zavala appealed the denial of the § 2255 motion, and the Fifth Circuit denied his motion for a certificate of appealability. (ECF No. 1205).

Since 2008, Zavala has unsuccessfully challenged the validity of his 2005 convictions through repeated, and often repetitive and successive § 2255 motions and attendant postjudgment and discovery motions. In 2022, Zavala filed a motion to reconstruct, correct or modify the record pursuant to Fed. R. App. P. 10. (ECF No. 1552). The Court denied the motion, and Zavala appealed. In March 2023, the Fifth Circuit dismissed the appeal for lack of jurisdiction and issued its second warning to Zavala that filing frivolous, repetitive, or otherwise abusive pleadings could

result in the imposition of sanctions.¹ *United States v. Zavala*, No. 22-50751 (5th Cir. March 17, 2023).

In July 2023, after Zavala moved for authorization to file a second or successive § 2255 motion, the Fifth Circuit ordered Zavala to pay a \$100 sanction and barred Zavala from filing any challenge to his 2005 convictions or sentences until the sanction is paid in full unless he first obtains leave of the appropriate court. *United States v. Zavala*, No. 23-50422 (5th Cir. July 25, 2023). The Fifth Circuit admonished Zavala that its prior warnings remain in effect, and Zavala's failure to comply with them will subject him to additional and increasing sanctions. Zavala paid the sanction.

In the present Motions pursuant to Fed. R. App. P. 10(c) and 10(e), and the All Writs Act, 28 U.S.C. § 1651(a), Zavala seeks "to correct and reconstruct the record" regarding the initial appearance in his criminal case and a status conference held on January 27, 2005. (ECF No. 1622 at 5). Zavala asserts that booking and transfer records from the Wilson County District Attorney's Office prove that Zavala was held in the Wilson County Jail from August 18-20, 2004. Zavala moves to "reconstruct" the record to reflect that no initial appearance was held in his criminal case on August 18, 2004. Zavala further asserts that "the January 27, 2005, hearing remains undocumented in the official docket. No transcript, minute order, or hearing log has been produced." (ECF No. 1622 at 5). Zavala seeks to "supplement the procedural record" with his sworn reconstruction of that hearing. (*Id.* at 14).

The Federal Rules of Appellate Procedure "govern procedure in the United States courts of appeals." Fed. R. App. P. 1(a)(1). Rule 10 addresses what constitutes the record on appeal and outlines an appellant's obligations in preparing the record. Zavala currently has no appeal pending

¹ The Fifth Circuit first warned Zavala in *United States v. Zavala*, No. 22-50318 (5th Cir. Nov. 18, 2022).

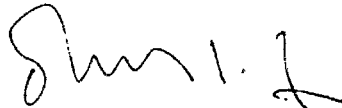
before the Fifth Circuit Court of Appeals. As stated previously, the Fifth Circuit dismissed Zavala's most recent motion for authorization to file a second or successive § 2255 motion and imposed a sanction. Accordingly, Rule 10 of the Federal Rules of Appellate Procedure is not applicable here. Moreover, it is neither necessary nor appropriate to invoke the All Writs Act to carry out Zavala's request.

Accordingly,

IT IS THEREFORE ORDERED that Jimmy Zavala's "Motion to Clarify and Correct the Record Under the Court's Inherent Authority and Federal Rule of Appellate Procedure 10(c) and 10(e), All Writs Act" (ECF No. 1622) is **DENIED**.

IT IS FURTHER ORDERED that Zavala's "Motion to Grant Motion to Clarify and Correct Record as Unopposed and Request for Prompt Ruling" (ECF No. 1623) is also **DENIED**.

SIGNED this the 29th day of July, 2025.

A handwritten signature in black ink, appearing to read "Orlando L. Garcia", written over a horizontal line.

ORLANDO L. GARCIA
United States District Judge

APPENDIX D

Order of the United States District Court for the Western District of Texas
denying the Rule 59(e) motion, ECF No. 1626 (October 7, 2025)

FILED

October 07, 2025

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

BY: NM
DEPUTY

UNITED STATES OF AMERICA

V.

**JIMMY ZAVALA
#49053-180**

§
§
§
§
§
§

SA-05-CR-425-OLG-2

ORDER

Before the Court is Movant Jimmy Zavala's *pro se* and self-styled "Motion to Alter or Amend Judgment Pursuant to Rule 59(e)." (ECF No. 1625). In 2005, Zavala was convicted of numerous drug, firearms, money laundering, and conspiracy offenses. His sentence includes a life term of imprisonment. The Fifth Circuit Court of Appeals affirmed the conviction and sentence on appeal. (ECF No. 955). This Court denied Zavala's motion pursuant to 28 U.S.C. § 2255 on the merits. (ECF Nos. 980 & 1160). Zavala appealed the denial of the § 2255 motion, and the Fifth Circuit denied his motion for a certificate of appealability. (ECF No. 1205).

Since 2008, Zavala has unsuccessfully challenged the validity of his 2005 convictions through repeated, and often repetitive and successive § 2255 motions and attendant postjudgment and discovery motions. In 2022, Zavala filed a motion to reconstruct, correct or modify the record pursuant to Fed. R. App. P. 10. (ECF No. 1552). The Court denied the motion, and Zavala appealed. (ECF No. 1561). In March 2023, the Fifth Circuit dismissed the appeal for lack of jurisdiction and issued its second warning to Zavala that filing frivolous, repetitive, or otherwise abusive pleadings could result in the imposition of sanctions.¹ *United States v. Zavala*, No. 22-50751 (5th Cir. March 17, 2023).

¹ The Fifth Circuit first warned Zavala in *United States v. Zavala*, No. 22-50318 (5th Cir. Nov. 18, 2022).

In July 2023, after Zavala moved for authorization to file a second or successive § 2255 motion, the Fifth Circuit ordered Zavala to pay a \$100 sanction and barred Zavala from filing any challenge to his 2005 convictions or sentences until the sanction is paid in full unless he first obtains leave of the appropriate court. *United States v. Zavala*, No. 23-50422 (5th Cir. July 25, 2023). The Fifth Circuit admonished Zavala that its prior warnings remain in effect, and Zavala's failure to comply with them will subject him to additional and increasing sanctions. Zavala paid the sanction.

Thereafter, in June and July of 2025, Zavala filed *pro se* Motions pursuant to Fed. R. App. P. 10(c) and 10(e), and the All Writs Act, 28 U.S.C. § 1651(a), seeking "to correct and reconstruct the record" regarding the initial appearance in his criminal case and a status conference held on January 27, 2005. (ECF Nos. 1622 & 1623). The Court denied the motions in an order issued on July 29, 2025. (ECF No. 1624). In the pending Motion, Zavala asks the Court to "alter or amend its final order dated July 29, 2025" pursuant to Fed. R. Civ. P. 59(e).

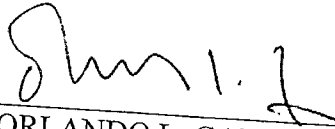
Rule 59(e) gives a district court the chance "to rectify its own mistakes in the period immediately following" its decision. *White v. New Hampshire Dept. of Employment Security*, 455 U. S. 445, 450 (1982). A Rule 59(e) motion should not be granted unless the movant can show: (1) an intervening change in controlling law; (2) the availability of new evidence previously not available; or (3) the need to correct a clear error of law or fact or to prevent a manifest injustice. *Brown v. Mississippi Co-op Extension Serv.*, 89 F. App'x 437, 437 (5th Cir. 2004) (citing cases). A Rule 59(e) motion is "not the proper vehicle for rehashing evidence, legal theories, or arguments that could have been offered or raised before the entry of judgment." *Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004).

This Court has twice considered and denied Zavala's requests to reconstruct, correct or modify the record pursuant to Fed. R. App. P. 10. (ECF Nos. 1552; ECF No. 1561, ECF Nos. 1622-1624). After Zavala appealed the denial of the first motion, the Fifth Circuit dismissed the appeal for lack of jurisdiction and warned Zavala against filing frivolous, repetitive, or otherwise abusive pleadings. *United States v. Zavala*, No. 22-50751 (5th Cir. March 17, 2023). The pending Motion fails to meet the requisite standard for relief under Rule 59(e).

Accordingly,

IT IS THEREFORE ORDERED that Movant Jimmy Zavala's "Motion to Alter or Amend Judgment Pursuant to Rule 59(e)" (ECF No. 1625) is **DENIED**.

SIGNED this the 7th day of October, 2025.



ORLANDO L. GARCIA
United States District Judge

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