FILED
United States Court of Appeals
Tenth Circuit

November 2, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROLANDO CIFUENTES-LOPEZ,

Defendant - Appellant.

No. 26-6138
(D.C. No. 5:23-CV-00684-G)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY[*]

Before **MATHESON**, **MURPHY**, and **ROSSMAN**, Circuit Judges.

This matter is before the court on Rolando Cifuentes-Lopez's pro se request for a certificate of appealability ("COA"). Cifuentes-Lopez seeks a COA so he can appeal the denial of his 28 U.S.C. § 2255 motion. *See* 28 U.S.C. § 2253(c)(1)(B) (providing no appeal is allowed from a "final order in a proceeding under section 2255" unless the movant first obtains a COA). Because Cifuentes-Lopez has not "made a substantial showing of the denial of a constitutional right," *id.* § 2253(c)(2), this court **denies** his request for a COA and **dismisses** this appeal.

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[*] This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Cifuentes-Lopez pleaded guilty to engaging in prohibited commercial sexual conduct "with two minors on one occasion each." *United States v. Cifuentes-Lopez*, 40 F.4th 1215, 1217 (10th Cir. 2022). In calculating Cifuentes-Lopez's advisory sentencing range under the United States Sentencing Guidelines, the district court applied multiple increases and enhancements. *See id.* at 1217-18 (identifying U.S.S.G. §§ 2G1.3(b)(4), 3D1.4, 4B1.5(b)(1), and 2G1.3(b)(2)(B)). The resulting advisory sentencing range was 235 to 293 months' imprisonment. *Id.* at 1218. "The district court sentenced Cifuentes-Lopez near the top of that range: 292 months." *Id.* On appeal, this court rejected Cifuentes-Lopez's challenges to the calculation of his advisory sentencing range and affirmed the sentence imposed by the district court. *Id.* at 1218-21.[1]

Cifuentes-Lopez thereafter timely filed the instant § 2255 motion challenging the validity of his convictions and sentence. The district court liberally construed Cifuentes-Lopez's § 2255 motion as presenting the following three grounds for relief: (1) actual innocence; (2) deprivation of due process based on inadequate Spanish interpretation of the guilty plea proceedings; and (3) ineffective assistance of trial counsel. In a comprehensive and well-stated order, the district court denied Cifuentes-Lopez's motion to vacate. The district court noted that under this court's binding precedents, *see, e.g.*, *Farrar v. Raemisch*,

[1] In a separate appeal, this court set aside those portions of the judgment awarding restitution to the victims of Cifuentes-Lopez's commercial sex crimes, concluding the government failed to adduce sufficient proof of but-for causation. *See generally United States v. Cifuentes-Lopez*, No. 24-6177, 2026 WL 1004457 (10th Cir. April 14, 2026).

924 F.3d 1126, 1131 (10th Cir. 2019), a freestanding claim of actual innocence is not a cognizable basis for relief under § 2255. As to the due process claim, the district court concluded Cifuentes-Lopez failed to demonstrate translation issues rendered his plea proceedings fundamentally unfair. *Cf. United States v. Sandoval*, 154 F.4th 186, 194 (4th Cir. 2025) ("The 'basic constitutional inquiry' when determining the competency of interpretation is whether any [inadequacy] in the interpretation made the trial fundamentally unfair. An interpretation need not be verbatim to be constitutionally sound if it reasonably conveys the intent or the idea of the thought spoken." (quotations and citations omitted)); *Ramirez v. Price*, No. 93-1382, 1994 WL 704483, at *3 (10th Cir. Dec. 19, 1994).[2] In particular, the district court recognized that Cifuentes-Lopez never complained about translation issues during his plea proceedings despite clear opportunities to do so. *See Ramirez*, 1994 WL 704483, at *3 ("A reviewing court is unlikely to find that a defendant received a fundamentally unfair trial due to an inadequate translation in the absence of contemporaneous objections to the quality of the interpretation." (quotation omitted)).[3] Finally, the district court ruled that

[2] We cite to the unpublished and, thus nonbinding, decision in *Ramirez* solely for its persuasive value. *United States v. Wilson*, 189 F.4th 1247, 1262 n.2 (10th Cir. 2026) ("Unpublished cases are not binding precedent, but we may consider them for their persuasive value."). The same is true for each of the unpublished dispositions cited in this order.

[3] The district court reasoned as follows:

> Rita Lyons, a certified courtroom interpreter, was appointed for Defendant at his initial appearance in federal court. Ms. Lyons was present

Cifuentes-Lopez's allegations of deficient performance of trial counsel were either foreclosed by this court's opinion on direct appeal or inconsistent with the trial record. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984) (holding that to demonstrate counsel's performance was constitutionally ineffective, a petitioner or movant must demonstrate both deficient performance and prejudice flowing from that deficiency).

Cifuentes-Lopez seeks a COA so he can appeal the district court's denial of his § 2255 motion. The granting of a COA is a jurisdictional prerequisite to an appeal from the denial of a § 2255 motion. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003). To be entitled to a COA, Cifuentes-Lopez must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make the requisite showing, he must demonstrate "reasonable jurists could debate whether (or, for that matter, agree that) the petition should

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> and served as the sworn interpreter at Defendant's change of plea hearing and at other proceedings. At this proceeding, Ms. Lyons was directed to notify the Court if at any point she believed that she did not understand Defendant or that Defendant did not understand her.
>
> At the change of plea hearing, the Court stated the criminal charges and explained what Defendant was alleged to have done. At no point did Ms. Lyons notify the Court of any lack of understanding between Defendant and her. Nor did Defendant or his counsel raise a translation issue, although they conferred or sought clarification on other matters. To the contrary, Defendant affirmed under oath that he "fully underst[ood] the charges" and wished to plead guilty on those charges.

United States v. Cifuentes-Lopez, Nos. CR-19-364-G, CIV-23-684-G, 2026 WL 2099348, at *3 (W.D. Okla. July 21, 2026) (record case citations omitted).

have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El*, 537 U.S. at 336 (quotations omitted). In evaluating whether he has satisfied this burden, we undertake "a preliminary, though not definitive, consideration of the [legal] framework" applicable to each of his claims. *Id.* at 338. Although he need not demonstrate his appeal will succeed to be entitled to a COA, Cifuentes-Lopez must "prove something more than the absence of frivolity or the existence of mere good faith." *Id.* (quotations omitted).

This court has undertaken a thorough review of Cifuentes-Lopez's combined appellate brief and request for COA, the district court's order, and the entire record before this court pursuant to the framework set out by the Supreme Court in *Miller-El*. That review demonstrates Cifuentes-Lopez is not entitled to a COA. In so ruling, this court has nothing to add to the thoughtful analysis set out in the district court order denying Cifuentes-Lopez's § 2255 motion. *Cf. United States v. Delgado-Salazar*, No. 21-2048, 2022 WL 783965, at *2 (10th Cir. March 15, 2022) ("Where a district court takes a proper measure of a case and ably sets forth its reasoning under the correct governing law, no useful purpose is served by us writing at length.").

Cifuentes-Lopez's request for a COA is **DENIED** and this appeal is **DISMISSED**.

Entered for the Court

Michael R. Murphy, Circuit Judge