

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 31, 2023

**Christopher M. Wolpert
Clerk of Court**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ADRIAN AYALA-GARCIA,

Defendant - Appellant.

No. 23-3178
(D.C. Nos. 2:19-CV-02491-JAR;
5:18-CV-04103-JAR-JPO &
5:16-CR-40002-DDC-1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NOHEMY BOBADILLA-OLIVA,

Defendant - Appellant.

No. 23-3179
(D.C. Nos. 2:19-CV-02491-JAR;
2:21-CV-2109-JAR-JPO &
2:16-CR-20031-JAR-4)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FERNANDO CABRAL TORRES,

Defendant - Appellant.

No. 23-3180
(D.C. Nos. 2:19-CV-02491-JAR;
2:19-CV-2298-JAR-JPO &
2:16-CR-20031-JAR-8)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAMIEN CAMPBELL,

Defendant - Appellant.

No. 23-3181
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02414-JAR-JPO &
2:16-CR-20011-JAR-1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JONATHAN DEHAVEN,

Defendant - Appellant.

No. 23-3182
(D.C. Nos. 2:19-CV-02491-JAR ;
2:18-CV-02474-JAR-JPO &
2:16-CR-20041-JAR- 1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLARENCE BRADLEY,

Defendant - Appellant.

No. 23-3183
(D.C. Nos. 2:19-CV-02491-JAR;
2:20-CV-02002-JAR-JPO &
2:16-CR-20014-JAR-4)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RONALD D. CATRELL,

Defendant - Appellant.

No. 23-3184
(D.C. Nos. 2:19-CV-02491-JAR ; 2:19-
CV-02408-JAR-JPO &
2:11-CR-20125-DDC-1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY L. IRVIN,

Defendant - Appellant.

No. 23-3186
(D.C. Nos. 2:19-CV-02491-JAR;
2:19-CV-02046-JAR-JPO &
2:13-CR-20070-DDC-5)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO ALBERTO FRANCO,

Defendant - Appellant.

No. 23-3187
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02415-JAR-JPO &
2:15-CR-20061-JAR-8)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NICHOLAS LOLAR,

Defendant - Appellant.

No. 23-3188
(D.C. Nos. 2:19-CV-02491-JAR;
2:19-CV-02393-JAR-JPO &
2:15-CR-20012-JAR-DJW-2)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TANYA JONES,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIE CLIFTON,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DOMINGO MONTES-MEDINA,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRIAN K. JACKSON,

Defendant - Appellant.

No. 23-3189

(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02254-JAR-JPO &
2:15-CR-20091-JAR-1)
(D. Kan.)

No. 23-3190

(D.C. Nos. 2:19-CV-02491-JAR;
2:19-CV-02411-JAR-JPO &
2:14-CR-20014-KHV-2)
(D. Kan.)

No. 23-3192

(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02464-JAR-JPO &
2:15-CR-20020-JAR-2)
(D. Kan.)

No. 23-3193

(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02434-JAR-JPO &
2:16-CR-20030-JAR-1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FERNANDO GUEVARA-GUEVARA,

Defendant - Appellant.

No. 23-3194
(D.C. Nos. 2:19-CV-02491-JAR;
2:21-CV-02427-JAR-JPO &
2:16-CR-20017-DDC-1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARUS D. MEBANE,

Defendant - Appellant.

No. 23-3195
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02413-JAR-JPO &
2:16-CR-20041-JAR-3)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE ANTONIO NUNEZ-AGUILAR,

Defendant - Appellant.

No. 23-3196
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02503-JAR-JPO &
2:15-CR-20061-JAR-1)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 23-3197

GERADIS RODRIGUEZ-TORRES,
Defendant - Appellant.

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

EDUARDO PONCE-SERRANO,
Defendant - Appellant.

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

NICHOLAS SOTO-CAMARGO, JR.,
Defendant - Appellant.

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

JOSE MARIN SORIANO,
Defendant - Appellant.

(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02462-JAR-JPO &
2:15-CR-20038-JAR-2)
(D. Kan.)

No. 23-3198
(D.C. Nos. 2:19-CV-02491-JAR;
5:18-CV-04104-JAR-JPO &
5:16-CR-40006-DDC-1)
(D. Kan.)

No. 23-3199
(D.C. Nos. 2:19-CV-02491-JAR;
5:18-CV-04097-JAR-JPO &
5:14-CR-40129-DDC-1)
(D. Kan.)

No. 23-3200
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02435-JAR-JPO &
2:15-CR-20020-JAR-9)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JASEN LOWELL THURMAN,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANILLE MORRIS,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAQUEL ODEGBARO,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

QUIAN YOUNGER,

No. 23-3201
(D.C. Nos. 2:19-CV-02491-JAR;
2:19-CV-02398-JAR-JPO &
2:15-CR-20091-JAR-2)
(D. Kan.)

No. 23-3202
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02378-JAR-JPO &
2:16-CR-20022-JAR-3)
(D. Kan.)

No. 23-3203
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02416-JAR-JPO &
2:16-CR-20001-JAR-1)
(D. Kan.)

No. 23-3204
(D.C. Nos. 2:19-CV-02491-JAR;
5:18-CV-04105-JAR-JPO &

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUIS VILLA-VALENCIA,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SERGIO ZAMUDIO,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESUS VERA,

Defendant - Appellant.

UNITED STATES OF AMERICA,

5:16-CR-40012-DDC-2)
(D. Kan.)

No. 23-3205
(D.C. Nos. 2:19-CV-02106-JAR-JPO;
2:19-CV-02491-JAR &
2:16-CR-20008-DDC-7)
(D. Kan.)

No. 23-3206
(D.C. Nos. 2:19-CV-02191-JAR-JPO;
2:19-CV-02491-JAR &
2:16-CR-20008-DDC-3)
(D. Kan.)

No. 23-3207
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-02422-JAR-JPO &
2:15-CR-20061-JAR-6)
(D. Kan.)

Plaintiff - Appellee,

v.

VICTOR VELAZQUEZ,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OSCAR VIVEROS-AVECIAS,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE TORRES-AYALA,

Defendant - Appellant.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO VAZQUEZ-SAENZPARDO,

Defendant - Appellant.

No. 23-3208
(D.C. Nos. 2:19-CV-02491-JAR;
2:20-CV-02254-JAR-JPO &
2:16-CR-20031-JAR-3)
(D. Kan.)

No. 23-3209
(D.C. Nos. 2:19-CV-02491-JAR;
2:20-CV-02431-JAR-JPO &
2:16-CR-20031-JAR-2)
(D. Kan.)

No. 23-3210
(D.C. Nos. 2:19-CV-02491-JAR;
2:19-CV-02399-JAR-JPO &
2:16-CR-20008-DDC-5)
(D. Kan.)

No. 23-3211
(D.C. Nos. 2:19-CV-02491-JAR;
2:18-CV-0417-JAR-JPO &
2:16-CR-20017-DDC-2)
(D. Kan.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NINCY SARAHI ZELAYA-PACHECO,

Defendant - Appellant.

No. 23-3213

(D.C. Nos. 2:19-CV-02491-JAR;

2:21-CV-02107-JAR-JPO &

2:16-CR-20031-JAR-5)

(D. Kan.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **MATHESON, BACHARACH**, and **PHILLIPS**, Circuit Judges.

These matters are before us on the Appellants' *Unopposed Motion to Consolidate, Expedite, and Resolve Appeals*, wherein they each request a certificate of appealability (COA) on the question whether the district court erred by relying on *United States v. Spaeth*, 69 F.4th 1190 (10th Cir. 2023) and *Tollett v. Henderson*, 411 U.S. 258 (1973) to dismiss their 28 U.S.C. § 2255 sentencing challenges.¹ Appellants bring these appeals to challenge only the *Spaeth*-based dismissal of their § 2255 sentencing challenges based on the Kansas USAO's pre-plea collection of their attorney-client communications. They do not intend to challenge any other aspect of the district court's resolution of their § 2255

* 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.

¹ This order addresses only Appellants' request for a COA. The request to consolidate and for other case management actions contained in the motion has been addressed by separate order.

motions. Appellants acknowledge that, absent a COA, these appeals must be dismissed.

28 U.S.C. § 2253(c). They also acknowledge that this court is bound by *Spaeth*.

Appellants' request for a COA is foreclosed by *Spaeth*. Accordingly, we deny a COA and dismiss these matters.

Entered for the Court

A handwritten signature in black ink, appearing to read 'C. M. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk