

JAN 27 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JESUS MANUEL ORTEGA-
SANCHEZ,

Defendant-Appellant.

No. 96-2092
(D.C. No. CIV 95-1276-JC/LEG)
(D.N.M.)

ORDER AND JUDGMENT*

Before ANDERSON, KELLY, and LUCERO, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Petitioner/Appellant Jesus Manuel Ortega-Sanchez appeals the district court's order denying his motion to vacate or correct sentence pursuant to 28 U.S.C. § 2255.¹ We have jurisdiction under 28 U.S.C. § 1291, and affirm for substantially the same reasons stated in the magistrate judge's findings and recommendation and adopted by the district court. R. Vol. I at tabs 10, 13.

AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge

¹ 28 U.S.C. § 2253(c)(1)(B) requires a party appealing the denial of a § 2255 motion to obtain a certificate of appealability. This requirement became effective April 24, 1996, and is not applied retroactively to this § 2255 appeal, which was filed on April 18, 1996. See United States v. Lopez, 100 F.3d 113, 117 (10th Cir. 1996).