

Filed 9/24/96

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CLARA J. ARAUJO and MARY E.
MARTINEZ,

Defendants-Appellants.

No. 96-4057
(D.C. No. 95-CV-234-W)
(D. Utah)

ORDER AND JUDGMENT*

Before PORFILIO, LOGAN, 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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Defendants Clara J. Araujo and Mary E. Martinez, appearing pro se, appeal the district court's order adopting the magistrate judge's recommendation to deny their motions to vacate, set aside or correct sentence, filed pursuant to 28 U.S.C. § 2255. They claim entitlement to relief on the grounds that (1) the evidence of drugs in their car should have been suppressed at trial, (2) they received ineffective assistance of counsel at trial, and (3) they are entitled to the benefit of 18 U.S.C. § 3553(f).

We review de novo the district court's legal rulings, its interpretation and application of the federal sentencing guidelines, and its legal conclusions regarding the claims of ineffective assistance of counsel. Rogers v. United States, 91 F.3d 1388, 1392 (10th Cir. 1996). The district court's findings of fact are reviewed under a clearly erroneous standard. United States v. Cox, 83 F.3d 336, 338 (10th Cir. 1996). We have carefully reviewed the district court record and the materials submitted by the parties. We affirm the judgment of the district court for substantially the reasons stated in the magistrate judge's report and recommendation dated December 29, 1995.

The judgment of the United States District Court for the District of Utah is
AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

John C. Porfilio
Circuit Judge