FILED
United States Court of Appeals
Tenth Circuit

November 12, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MUBARAK SULAIMAN UKASHAT,

Defendant - Appellant.

No. 26-4108
(D.C. Nos. 2:25-CV-00759-HCN &
2:23-CR-00111-HCN-1)
(D. Utah)

ORDER AND JUDGMENT*

Before **BACHARACH**, **McHUGH**, and **CARSON**, Circuit Judges.

Defendant-Appellant Mubarak Sulaiman Ukashat, proceeding pro se, appeals the district court's denial of his motion under 28 U.S.C. § 2255.[1] Specifically, he challenges its rejection of his claim that defense counsel provided ineffective assistance by failing to request a continuance to obtain and present additional evidence before sentencing. He also seeks an expanded certificate of appealability ("COA") to challenge various other

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* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

[1] Because Mr. Ukashat is appearing without counsel, "we liberally construe his filings, but we will not act as his advocate." *James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013).

aspects of the district court's order. Separately, Mr. Ukashat moves for release pending resolution of his appeal.

The district court granted a COA to Mr. Ukashat only on his claim that defense counsel failed to request a continuance of his sentencing hearing to present additional evidence. With respect to the certified claim, Mr. Ukashat has not established a reasonable probability that the additional evidence would have resulted in a more favorable sentence. Likewise, he has not established that reasonable jurists could debate the resolutions of his other claims. Thus, acting pursuant to 28 U.S.C. § 1291 and 28 U.S.C. § 2253(c), we affirm the denial of relief as to Mr. Ukashat's certified claim, deny his request for an expanded COA, and dismiss the remainder of his appeal. In light of those conclusions, we also deny his motion for release as moot.

I. BACKGROUND

The facts are derived primarily from the pre-sentence investigation report ("PSR"), which the district court adopted. Mr. Ukashat was a Ph.D. candidate at Utah State University and the president of the Muslim Students Club. In June and July 2020, Mr. Ukashat used stolen identities to secure four Economic Injury Disaster Loans ("EIDL") from the U.S. Small Business Administration ("SBA"). In total, Mr. Ukashat received approximately $333,900. The proceeds were then deposited in the club bank account, which Mr. Ukashat controlled.

In addition to using the funds for unauthorized purposes, like purchasing a new car and paying for personal expenses, Mr. Ukashat transferred more than $101,000 of the funds to places outside of the United States. Around that same time, Mr. Ukashat

obtained approximately $58,927 in unemployment benefits—for which he was ineligible—from Washington, Michigan, and Arizona. And in October and December 2020, Mr. Ukashat submitted two additional EIDL loan applications that used his personal information and directed the funds to his personal bank account.

Ultimately, a federal grand jury indicted Mr. Ukashat in the District of Utah. The final version of the indictment charged four counts of wire fraud (and aiding and abetting wire fraud), one count of aggravated identity theft (and aiding and abetting aggravated identity theft), and three counts of money laundering (and aiding and abetting money laundering). The charges were expressly related to the four EIDL applications that Mr. Ukashat allegedly submitted in June and July 2020. Mr. Ukashat maintained that his acquaintance, Austin Idahosa, orchestrated the fraudulent applications on his behalf and misappropriated his identity while telling him that the funds were to be distributed to a charity. He also claimed that Mr. Idahosa directed him to distribute unemployment benefits to individuals who were unable to access their lawful benefits on account of travel restrictions related to COVID-19.

Prior to the scheduled trial, the Government gave notice of its intent to introduce evidence concerning the October and December EIDL loan applications and the unemployment benefits transactions. Mr. Ukashat moved to exclude that evidence, claiming primarily that it was not intrinsic and unfairly prejudicial. The district court denied the motion, finding that the proof was relevant to Mr. Ukashat's knowledge, intent, and absence of mistake. Mr. Ukashat then discharged his attorney shortly before

the scheduled trial. The district court appointed counsel from the Federal Public Defender's Office and vacated the trial date.

However, the matter did not proceed to trial. Instead, Mr. Ukashat pleaded guilty to a separate felony information that charged one count of failure to file currency and other monetary instruments reports in violation of 31 U.S.C. § 5324(c)(1). The plea agreement was entered into under Federal Rule of Criminal Procedure 11(c)(1)(C) and provided for a 12–36-month term of imprisonment. In the agreement, Mr. Ukashat admitted that he "knowingly transported or caused to be transported at least $101,000 in United States currency in increments exceeding $10,000, from a place in the United States to" other locations including Nigeria and the United Arab Emirates "for the purposes of evading the reporting requirements." ROA Vol. II at 234. Notably, the agreement also stated that:

> I also knowingly, voluntarily, and expressly waive my right to challenge my sentence, unless the sentence imposed is greater than the sentence set forth in this agreement, and my conviction, in any collateral review motion, writ or other procedure, including but not limited to a motion brought under 28 U.S.C. § 2255, except on the issue of ineffective assistance of counsel.

Id. at 235. Ultimately, the magistrate judge reviewed and accepted Mr. Ukashat's guilty plea.

The PSR computed a final offense level of 16 based on the amount transferred, Mr. Ukashat's knowledge that he "obtained the used funds from fraudulent EIDL and state unemployment applications," and Mr. Ukashat's "pattern of unlawful activity." ROA Vol. III at 20. When combining the final offense level with Mr. Ukashat's criminal

history category of II, the U.S. Sentencing Commission Guidelines yielded a final advisory range of 24–30 months.

Mr. Ukashat objected to the PSR's treatment of the EIDL loans and unemployment benefits as relevant conduct to his conviction for failing to file currency and other monetary instruments reports. He characterized his conviction as involving only a "technical, regulatory offense" and argued that the other proof had no meaningful connection to it. ROA Vol. I at 164.

On August 6, 2025, Mr. Ukashat emailed his attorney to notify him that a notice concerning Mr. Idahosa's criminal activities had been sent from the International Criminal Police Organization's ("Interpol") office in Nigeria to its office in Washington, D.C. At Mr. Ukashat's direction, his attorney sent prosecutors a request for the notice. They responded that they could not confirm the notice's existence, as there was no record of it with the Department of Justice.

The sentencing hearing took place on August 21, 2025. Defense counsel stated that he had submitted several character reference letters earlier that morning, and the district court paused the hearing to review them. Upon resuming the hearing, the district court overruled Mr. Ukashat's objection, concluding that the Government had shown by a preponderance of the evidence that the EIDL loans and unemployment benefits were part of the same course of conduct or common scheme as the offense of conviction and had generated the funds that Mr. Ukashat transferred overseas. The district court ultimately imposed a 24-month term of imprisonment with three years of supervised release to follow. In explaining its decision, it stated that "given the scope of the relevant conduct,

which I think is highly culpable and caused a great deal of financial harm, I don't see how I can go lower than the [G]uidelines." ROA Vol. II at 414. Consistent with the plea agreement, the district court also ordered restitution in the amount of $392,827.

Mr. Ukashat subsequently filed a § 2255 motion. In the motion, he brought an ineffective assistance of counsel ("IAC") claim premised on: (1) his attorney's failure "to secure or present the Interpol Nigeria Notice despite repeated instructions"; (2) his attorney's failure "to timely file letters of support"; (3) his attorney's failure to present his "concrete restitution plan of $20,000–$50,000 annual payments"; and (4) his prior attorney's disregard of his "requests to disclose evidence, leading to heated disputes before the judge." ROA Vol. I at 220. Mr. Ukashat raised various other non-IAC claims. He also attached a draft summary of the Interpol notice to his motion, which concerned Mr. Idahosa's fraudulent activities and was dated July 30, 2025. The draft summary contains numerous typographical and grammatical errors, and there is no indication that it actually originated from Interpol's office in Nigeria.

Without holding an evidentiary hearing, the district court denied Mr. Ukashat's § 2255 motion in full. Initially, it found that all of Mr. Ukashat's non-IAC claims were waived by his knowing and voluntary entry into the plea agreement. It then concluded that Mr. Ukashat had failed to prove deficient performance or prejudice on any of his IAC claims. However, it granted a COA as to only Mr. Ukashat's first IAC claim premised on his attorney's failure to secure or present the Interpol notice.

Mr. Ukashat then filed a timely notice of appeal. He broadly asserts that he established the elements of an IAC claim with respect to his attorney's failure to seek a

continuance to obtain the Interpol notice and that he is entitled to an expanded COA. Recently, Mr. Ukashat also filed a motion for release pending resolution of his appeal. We address his appeal, his request for an expanded COA, and his motion for release here.

II. LEGAL STANDARD

Under § 2255, "[a] federal prisoner may challenge the legality of his or her underlying conviction." *Cleaver v. Maye*, 773 F.3d 230, 232 (10th Cir. 2014). But § 2255 motions are not substitutes for direct appeals, instead providing a basis to collaterally attack "fundamental defect[s] which inherently result[] in a complete miscarriage of justice." *United States v. Addonizio*, 442 U.S. 178, 186 (1979) (quoting *Hill v. United States*, 368 U.S. 424, 428 (1962)). When the district court denies a § 2255 motion as a matter of law upon an uncontested trial record without holding an evidentiary hearing, "our review is strictly de novo." *United States v. Rushin*, 642 F.3d 1299, 1302 (10th Cir. 2011).

III. DISCUSSION

A. Section 2255

Mr. Ukashat has not demonstrated a reasonable probability that the introduction of the Interpol notice would have resulted in a lower sentence. Nor has Mr. Ukashat shown that reasonable jurists could debate the district court's resolutions of his other claims. For those reasons, we affirm the district court's denial of his certified IAC claim and decline to expand the COA.

1. Ineffective Assistance of Counsel—Interpol Notice

Mr. Ukashat contends that the district court erred in denying his IAC claim based on defense counsel's failure "to request a continuance so that the Interpol Nigeria evidence could be obtained and presented before [the] sentence was imposed." Appellant's Br. at 1. We disagree and therefore affirm the denial of his only certified claim.

To prevail on an IAC claim, Mr. Ukashat must satisfy both elements of the test established in *Strickland v. Washington*, 466 U.S. 668 (1984). First, he "must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.* at 687. Second, he "must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." *Id.* We may address these elements in either order, and we need not address both if the defendant fails to establish one. *See Hooks v. Workman*, 606 F.3d 715, 724 (10th Cir. 2010) ("[I]t is not always necessary to address both *Strickland* prongs. In particular, if [the defendant] is unable to satisfy his burden under *Strickland*'s prejudice prong, it is unnecessary to determine whether counsel's performance was deficient.").

In the sentencing context, "any amount of actual jail time" attributable to defense counsel's deficient performance has Sixth Amendment significance. *Glover v. United States*, 531 U.S. 198, 203 (2001). However, the defendant must still establish a reasonable probability that defense counsel's error did, in fact, affect the sentencing

outcome. *See id.* at 203–04; *see also United States v. Strasser*, 502 F. App'x 736, 739–40 (10th Cir. 2012) (unpublished).[2]

Mr. Ukashat has not made such a showing. He argues that the Interpol notice would have corroborated that he was an unwitting participant acting at Mr. Idahosa's direction. On that theory, the proceeds from the EIDL loans and unemployment benefits should not have been counted as relevant conduct, which would have resulted in a lower Guidelines range. But the record does not establish a reasonable probability that the Interpol notice would have changed the district court's assessment of the relevant conduct.

First, defense counsel presented the substance of this argument at sentencing. The district court rejected it, finding the relevant conduct established by a preponderance of the evidence. In reaching that finding, the district court relied on evidence that the Interpol notice would not have displaced, including the PSR's description of the relevant facts and the restitution obligation, both of which Mr. Ukashat acknowledged and accepted in the plea agreement. The district court also questioned the plausibility of his explanation, observing that one does not generally "buy automobiles with grants, especially grants for charity." ROA Vol. II at 398. Thus, even if the Interpol notice had been available, it would not have rebutted the evidence the district court relied on in finding Mr. Ukashat responsible.

[2] We cite unpublished cases for their persuasive value only and do not treat them as binding authority. *See United States v. Ellis*, 23 F.4th 1228, 1238 n.6 (10th Cir. 2022).

Second, the district court actually considered the Interpol materials that Mr. Ukashat submitted in resolving the § 2255 motion and found it "extremely doubtful that Mr. Ukashat would have received a lower sentence had the sentencing hearing been delayed until the notice was available given the scale of the financial harm facilitated by the criminal conduct to which Mr. Ukashat pleaded guilty and the extensive circumstantial evidence of Mr. Ukashat's culpability." ROA Vol. I at 254. We agree. Even accepting the draft summary's account of the investigation at face value, the materials do not undermine the substantial evidence supporting the district court's findings. Nor do they establish a reasonable probability that the district court would have imposed a sentence below a 24-month term of imprisonment.

Accordingly, Mr. Ukashat has not established a reasonable probability that obtaining and presenting the Interpol notice would have resulted in a lower sentence. Because he has failed to establish prejudice, we need not decide whether defense counsel's performance was deficient, *see Hooks*, 606 F.3d at 724, and we affirm the district court's denial of relief as to this claim.

2. Expanded COA

Mr. Ukashat seeks a COA on "whether an evidentiary hearing was required," "whether counsel's sentencing deficiencies should be evaluated collectively," "whether the Government's handling of specifically identified favorable evidence created a sentencing due-process problem," and "whether counsel's knowledge of the longstanding [Mr. Idahosa] defense affected plea-stage representation." Appellant's Br. at 9. We consider each in turn.

We issue a COA only upon a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make such a showing, a petitioner must "demonstrat[e] that the issues he seeks to raise on appeal are deserving of further proceedings, subject to a different resolution on appeal, or reasonably debatable among jurists of reason." *Montez v. McKinna*, 208 F.3d 862, 869 (10th Cir. 2000). Where, as here, the district court has denied a claim on procedural grounds, the petitioner must "show[], at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

First, § 2255(b) requires an evidentiary hearing "[u]nless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief." But a hearing is not required to resolve factual disputes that would not entitle the defendant to relief even if they were resolved in his favor. *See United States v. Barrett*, 797 F.3d 1207, 1224 (10th Cir. 2015) (noting that the question of whether an evidentiary hearing is appropriate "turns on 'whether such a hearing could enable the movant to prove the motion's factual allegations, which, if true, would entitle the movant to relief.'" (quoting *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007)). As explained above, even assuming that defense counsel performed deficiently in failing to seek a continuance, Mr. Ukashat has not demonstrated a reasonable probability that a lower sentence would have resulted. Because additional factual development would not alter the disposition of his certified

claim, reasonable jurists could not debate the district court's decision to deny relief without an evidentiary hearing.[3]

Second, Mr. Ukashat argues that defense counsel's other sentencing deficiencies—including the delayed submission of the mitigation letters and the failure to present the Interpol notice—should be considered cumulatively. But the cumulative error doctrine provides relief only where there are multiple errors to aggregate. *See Bunton v. Atherton*, 613 F.3d 973, 990 (10th Cir. 2010) ("[T]he cumulative error doctrine does not apply here because we have not found the existence of two or more actual errors.").[4] Mr. Ukashat has not argued that reasonable jurists could debate the district court's rejection of his other IAC claims, much less that they could identify multiple constitutional errors and a prejudicial cumulative effect.

Third, Mr. Ukashat charges that the Government's handling of the Interpol notice creates at least a debatable issue of prosecutorial misconduct under *Brady v. Maryland*, 373 U.S. 83 (1963). But the district court concluded that Mr. Ukashat's non-IAC claims fell within the scope of his collateral attack waiver, that he knowingly and voluntarily entered the waiver, and that enforcing it would not result in a miscarriage of justice. *See United States v. Hahn*, 359 F.3d 1315, 1325 (10th Cir. 2004) (en banc). On appeal,

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[3] Likewise, the district court was not required to order a response from the Government given its determination that Mr. Ukashat was plainly not entitled to relief. *See* Rule 4(b) of the Rules Governing Section 2255 Proceedings.

[4] And with respect to the only other IAC claim that Mr. Ukashat actually references, the district court actually paused the proceedings and considered the character letters at the sentencing hearing, supporting its conclusion that no prejudice could have resulted from the delayed submission.

Mr. Ukashat does not meaningfully challenge those conclusions. And our review of the record reveals no basis to question the district court's application of the *Hahn* factors. We therefore conclude that reasonable jurists could not debate the district court's procedural resolution.

Fourth, Mr. Ukashat asks us to consider whether defense counsel's pre-plea advice concerning the Mr. Idahosa defense affected the enforceability of the waiver provision. Presumably, Mr. Ukashat believes defense counsel's failure to apprise him of the Interpol notice—which was not yet created at the time Mr. Ukashat entered into the plea agreement—rendered his plea agreement invalid. Mr. Ukashat raises this claim for the first time on appeal. The district court did not pass on the claim, and he does not argue plain error on appeal. As a result, it is waived. *See United States v. McBride*, 94 F.4th 1036, 1044 (10th Cir. 2024); *Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1131 (10th Cir. 2011). On this record, Mr. Ukashat has not shown that reasonable jurists could debate the denial of relief on this claim.

In sum, Mr. Ukashat has failed to show that he is entitled to an expanded COA with respect to any of his claims.

B. Motion for Release

Mr. Ukashat also moves for release pending the resolution of his appeal. But because we affirm the denial of relief on Mr. Ukashat's certified claim and dismiss the remainder of his appeal, we deny this motion as moot. *See United States v. Hammons*, 833 F. App'x 215, 217 (10th Cir. 2021) (unpublished) ("We deny Hammons's

application for a COA and dismiss this matter. . . . We deny Hammons's motion for release on bail pending appeal as moot.").[5]

IV. CONCLUSION

Accordingly, we AFFIRM the district court's denial of Mr. Ukashat's certified claim, DENY his request for an expanded COA, and DISMISS the remainder of his appeal. We also DENY Mr. Ukashat's motion for release.

Entered for the Court

Carolyn B. McHugh
Circuit Judge

[5] For identical reasons, we also deny as moot Mr. Ukashat's two pending motions seeking, among other things, expedited consideration, appointment of counsel, modification of the briefing schedule, and leave to submit additional materials concerning his projected release date.