

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT

FILED  
United States Court of Appeals  
Tenth Circuit

February 22, 2011

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MIGUEL R. HERNANDEZ,

Defendant - Appellant.

No. 10-1532  
(D.C. Nos. 1:10-CV-00781-MSK and  
1:08-CR-00250-MSK)  
(D. Colo.)

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**ORDER DENYING CERTIFICATE OF APPEALABILITY  
AND DISMISSING APPEAL**

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Before **O'BRIEN, McKAY, and TYMKOVICH**, Circuit Judges.

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Miguel R. Hernandez, a federal prisoner appearing pro se,<sup>1</sup> seeks a certificate of appealability (COA). He wants to appeal from the district court's denial of his 28 U.S.C. § 2255 motion to vacate, set aside or correct sentence. Incredibly, he makes no argument in support of his request. Because he has not "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), his request must be denied.

Hernandez pled guilty to federal drug and firearms charges on December 29, 2008. On April 2, 2009, judgment entered; he was sentenced to 188 months imprisonment. He

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<sup>1</sup> We liberally construe Hernandez's pro se filings. *See Ledbetter v. City of Topeka, Kan.*, 318 F.3d 1183, 1187 (10th Cir. 2003).

did not appeal.

On April 6, 2010, Hernandez filed a § 2255 motion arguing: 1) the district court misapplied the sentencing guidelines in finding him subject to a sentencing enhancement; and 2) he received ineffective assistance of counsel. The district court denied relief, rendering a cogent and comprehensive opinion and order, which also, *sua sponte*, considered the propriety of a COA and pre-emptively denied one.

Here, Hernandez submitted an opening brief and application COA on a form supplied by this court. His application does not present the issues he wishes to pursue on appeal. It contains no arguments. In fact, it contains nothing more than repeated references to the attachment – a copy of the motion to vacate, set aside or correct sentence he filed in the district court. His summary application will be met with equal brevity.

Hernandez's request for a COA is **DENIED**. This matter is **DISMISSED**.

**Entered by the Court:**

**Terrence L. O'Brien**  
United States Circuit Judge