

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 04-10098-01
)	No. 05-3229-MLB
)	
CARLOS VALENCIA-MARTINEZ,)	
)	
Defendant.)	
)	

ORDER

Before the court are the following:

1. Notice of appeal; and
2. Declaration support of request to proceed in forma pauperis (Doc. 19).

By its order of May 26, 2005, this court denied defendant's motion pursuant to 28 U.S.C. § 2255 (Doc. 17). Defendant's motion was denied on the grounds that defendant had not sought and been granted leave to proceed in forma pauperis and because defendant had waived his right to file a § 2255 motion as part of his plea agreement. However, the court also found that the grounds set forth in defendant's motion were non-meritorious.

Defendant's application to proceed in forma pauperis is granted. Defendant's application for a certificate of appealability is denied because defendant has not made substantial showing of denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Defendant has not demonstrated that jurists of reason could disagree with this court's resolution of his claims or that

jurists could conclude the issues present are adequate to deserve encouragement to proceed further. Miller-El v. Cockrell, 123 S. Ct. 1029, 1034, 1039 (2003).

IT IS SO ORDERED.

Dated this 20th day of June 2005, at Wichita, Kansas.

s/ Monti Belot
Monti L. Belot
UNITED STATES DISTRICT JUDGE