

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Nina Y. Wang

Criminal Case No. 23-cr-00074-NYW-1

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. DEJANE REANIECE LATTANY,

Defendant.

ORDER

This matter comes before the Court on the following Motions filed by Defendant DeJane Reaniece Lattany (“Defendant” or “Ms. Lattany”), who is proceeding pro se.¹

- (1) Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 (“Original § 2255 Motion”). [Doc. 46, filed November 13, 2023];² and

¹ Because Ms. Lattany proceeds pro se, the Court construes her pleadings liberally, but does not and cannot act as her advocate, *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991), and applies the same procedural rules and substantive law to Ms. Lattany as to a represented party, *Murray v. City of Tahlequah*, 312 F.3d 1196, 1199 n.3 (10th Cir. 2008).

² Courts may take judicial notice of and consider documents on their own dockets. *Tal v. Hogan*, 453 F.3d 1244, 1264 n.24 (10th Cir. 2006). Here, the Court takes judicial notice of Ms. Lattany’s separate filing in *Lattany v. Colorado*, Civil Action No. 23-cv-03027-LTB-SBP (D. Colo. Nov. 11, 2023), [ECF No. 1]. Where the Court refers to the filings made in the Electronic Court Filing (“ECF”) system in this action, it uses the convention [Doc. ____]. When the Court refers to the ECF docket number for Ms. Lattany’s other action, it uses the convention [ECF No. ____]. In either case, the Court identifies the page number as assigned by the ECF system.

(2) Amended 28 U.S.C. § 2255 (“Supplemental § 2255 Petition”, and collectively with the Original § 2255 Petition, “Habeas Petition”) [Doc. 62, filed February 5, 2024].³

The Government has responded to Defendant’s Original § 2255 Petition, [Doc. 61], to which Ms. Lattany provided a “Response to Prosecution’s Rebuttal / 2255 / Ineffective Counsel,” [Doc. 65]. Upon discovering that the Government had not responded to the Supplemental § 2255 Petition, this Court ordered the Government to do so no later than May 15, 2025. [Doc. 105]. In addition, given the nature of the allegations involving her former counsel’s representation, the Court also ordered Ms. Lattany’s former counsel, Jason Flores-Williams (“Mr. Flores-Williams”) to respond to Ms. Lattany’s specific allegations no later than May 15, 2025, and directed the Clerk of the Court to serve a copy of the Minute Order at his last known e-mail address. [*Id.*]. On May 15, 2025, the Government filed its Response to the Supplemental § 2255 Petition. [Doc. 111]. Mr. Flores-Williams did not respond to the Court’s order.⁴

BACKGROUND

On March 3, 2023, Ms. Lattany was charged by Information with one count of wire fraud pursuant to 18 U.S.C. § 1343. [Doc. 1]. The following week, before her Initial

³ Generally, a petitioner may only amend a habeas petition pursuant to § 2255 after leave of court. *United States v. Roe*, 913 F.3d 1285, 1296 (10th Cir. 2019) (“Pursuant to the provisions of Fed. R. Civ. P. 15(a)(2), a movant may file an amended § 2255 motion at any time during post-conviction proceedings with leave of court.”). Here, Ms. Lattany did not file a motion to amend her Original § 2255 Petition. However, because this Court construes Ms. Lattany’s pro se filings liberally, it deems the Supplemental § 2255 Petition as supplementing the Original § 2255 Petition, and considers them together.

⁴ Correspondence included in Ms. Lattany’s Motion for Compassionate Release suggests that Mr. Flores-Williams may no longer be practicing law or residing in the United States. [Doc. 81 at 80]. As discussed below, Mr. Flores-Williams is no longer counsel of record in this action.

Appearance, private counsel Mr. Flores-Williams entered an appearance on her behalf and filed a Waiver of Indictment. [Doc. 3; Doc. 5]. The next day, Ms. Lattany, through Mr. Flores-Williams, filed a Notice of Disposition. [Doc. 8]. In advance of her Change of Plea hearing, Ms. Lattany executed a Plea Agreement with the United States and a Statement in Advance of Plea of Guilty. [Doc. 13; Doc. 14]. The Plea Agreement contained a portion entitled “VI. Advisory Guideline Computation and 3553 Advisement.” [Doc. 13 at 15–17]. In that portion, the adjusted total offense level was 24, with an estimate of her Criminal History category estimate as I, resulting in an advisory guideline range of 51–63 months. [*Id.* at 17]. Ms. Lattany signed the Plea Agreement, as did her attorney. [*Id.* at 18].

She appeared before the Court for a Change of Plea hearing on April 26, 2023 at 1:00 p.m., during which the Court advised her of her constitutional rights and the consequences of pleading guilty. [Doc. 12]. Ms. Lattany confirmed that she understood the charge being brought against her, [Doc. 60 at 8:20–22:]; that Mr. Flores Williams had discussed the charges with her and he had answered all of her questions to her satisfaction, [*id.* at 8:14–19]; and that she understood the plea agreement, [*id.* at 11:1–17]. The Parties also discussed the anticipated application of the United States Sentencing Guidelines, as reflected in the Plea Agreement, and each side confirmed that the estimated advisory guideline range for incarceration was 51 to 63 months based on an offense level of 24 and a criminal history category I. [*Id.* at 19:7–20:21]. The Court informed Ms. Lattany that those were only estimates, and that the calculation could change based on the presentence investigation of the United States Probation Office. [*Id.* at 20:4–17]. Ms. Lattany indicated that she did not have any questions, [*id.* at 22:16–18];

she was satisfied with the representation that Mr. Flores-Williams had provided to her, [*id.* at 22:23–23:1]; and she believed that he had fully advised her with respect to her case, [*id.* at 23:2–4]. She then withdrew her plea of not guilty, pleaded guilty, and was adjudged guilty of Count I of the Information, charging her with wire fraud in violation of 18 U.S.C. § 1343 fraudulently apply for, and accepting funds from, the Paycheck Protection Program and Economic Injury Disaster Grants promulgated in response to the COVID-19 pandemic. [Doc. 13 at 7–13; Doc. 60 at 23:5–11; 24:7–25:23].

Ms. Lattany then appeared for her Sentencing hearing on August 15, 2023, again represented by Mr. Flores-Williams. [Doc. 25; Doc. 111-1]. The Parties filed no objections to the Presentence Investigation Report, including but not limited to the advisory guideline calculations, and the Court found that the applicable advisory guideline calculation was 24, with a criminal history category of II,⁵ resulting in an advisory sentencing guideline range of 57–71 months imprisonment. [Doc. 111-1 at 4:7–5:16]. In her Sentencing Memorandum, Ms. Lattany, through counsel, advocated for a sentence of incarceration of 45 months. [Doc. 19 at 3]. The United States advocated for a sentence of incarceration of 51 months. [Doc. 24 at 1]. The United States Probation Office recommended a sentence of 48 months incarceration. [Doc. 22-1 at 2]. After argument by counsel and allocution by Defendant, this Court sentenced Defendant to 48 months' imprisonment, to be followed by three years of supervised release. [Doc. 25 at 2; Doc. 27]. At no time during either her Change of Plea or Sentencing hearing did Ms. Lattany

⁵ On May 22, 2023, between the execution of her Plea Agreement and the Change of Plea hearing on April 26, 2023, and her Sentencing Hearing on August 15, 2023, Ms. Lattany pleaded guilty and was convicted of a felony in state court. [Doc. 22 at 13–14]. Accordingly, her Criminal History score changed from the estimate of I, to II.

inform the Court—or even suggest—that she did not understand what was happening during the proceedings or she disagreed with what her attorney was advocating for in terms of incarceration. *See generally* [Doc. 60; Doc. 111-1]. Judgment entered against Ms. Lattany on August 21, 2023. [Doc. 27]. That same day, Mr. Flores-Williams moved to withdraw as counsel, indicating that his representation was only through sentencing and that Ms. Lattany had notice of and “fully agree[d] to the withdrawal.” [Doc. 26]. Based on those representations, the Court granted Mr. Flores-Williams’ Motion to Withdraw. [Doc. 29]. Although this Court extended the deadline to file any Notice of Appeal directly to the United States Court of Appeals for the Tenth Circuit (“Tenth Circuit”) to October 5, 2023, [Doc. 30; Doc. 31], Defendant did not file an appeal.

After granting two extensions, *see* [Doc. 41; Doc. 44], the Court ordered Defendant to self-surrender to federal custody on November 30, 2023, *see* [Doc. 45]; *see also* [Doc. 53 (permitting Ms. Lattany to self-surrender in Denver, Colorado)]. On November 13, 2023, Ms. Lattany filed a pro se Original § 2255 Petition which was supplemented on February 5, 2024. *See* [Doc. 46; Doc. 62]. After the Court denied Ms. Lattany’s request for continued release pending resolution of the Original § 2255 Petition, *see* [Doc. 55; Doc. 56], Defendant surrendered to federal custody on November 30, 2023, where she remains in the custody of the federal Bureau of Prisons (“BOP”). Since that time, Ms. Lattany has also filed a Motion for Compassionate Release; Motion for Injunctive Relief; and Notice to the Court—all seeking release from the BOP.⁶

⁶ The Court denied Defendant’s Motion for Compassionate Release, Motion for Injunctive Relief, and Notice to the Court in a separate Order on May 13, 2025. [Doc. 109].

LEGAL STANDARD

Section 2255 of Title 28 of the United States Code provides prisoners a mechanism for vacating, setting aside, or correcting their federal sentence. The petition must be filed in the district that imposed the sentence, because the sentencing court, rather than the district court where the prisoner is confined, must determine the validity of its sentence. See *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996). The district court must hold 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.” *United States v. Galloway*, 56 F.3d 1239, 1240 n.1 (10th Cir. 1995) (quoting 28 U.S.C. § 2255(b)); accord *Arredondo v. United States*, 178 F.3d 778, 782 (6th Cir. 1999) (noting that the court need not grant an evidentiary hearing where the factual allegations are contradicted by the record, inherently incredible, or when they are conclusions rather than statements of fact).

ANALYSIS

Defendant identifies various bases for habeas relief. [Doc. 46; Doc. 62]. First, Ms. Lattany contends that she is entitled to relief because the Government violated her rights under *Brady v. Maryland*, 373 U.S. 83 (1963). [Doc. 46 at 4]. Ms. Lattany further alleges that Mr. Flores-Williams made promises and advised her in a manner that “turned out to be untrue and resulted in me having a higher criminal history score and now being safety valve ineligible”—thus leading to a term of incarceration that was either completely unexpected or was longer than she expected. [*Id.*]. Specifically, Ms. Lattany now avers that Mr. Flores-Williams coerced her into accepting a state plea deal by strongly suggesting to her that she not read the plea agreement; advising her to plead guilty to her state charges that then led to her having a higher criminal history level than anticipated;

by not providing her a copy of her Presentence Investigation Report or Sentencing Memorandum until after the sentencing took place. [*Id.* at 6–11; Doc. 62 at 1–2]. In addition, Ms. Lattany refers to certain advice that Mr. Flores-Williams purportedly gave her about her home located at 11125 Quintero Court, Commerce City, Colorado, 80022, which was subject to a forfeiture allegation pursuant to the Information, [Doc. 1 at ¶¶ 21–23]; her Plea Agreement, [Doc. 13 at 2]; the Judgment, [Doc. 27 at ¶ 7]; and *United States v. 11125 Quintero Court, Commerce City, Colorado, 80022*, No. 22-cv-01351-RM (D. Colo. May 31, 2022). [Doc. 62 at 1–2].

I. *Brady* Violation

Pursuant to *Brady v. Maryland*, a prosecutor is precluded from suppressing “evidence favorable to an accused upon request . . . where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” 373 U.S. at 87. While the Government contends that *Brady* necessarily does not apply because Ms. Lattany pleaded guilty before she was indicted, see [Doc. 61 at 4 (citing *United States v. Sgarlat*, 705 F. Supp. 2d 347, 359 (D.N.J. 2010))],⁷ it cites no authority binding on this Court nor could this Court find any independently.

Respectfully, this Court is not bound by decision by another district court. See *United States v. Rhodes*, 834 F. App’x 457, 462 (10th Cir. 2020) (“[D]istrict courts in this circuit are bound by [Tenth Circuit] decisions and those of the United States Supreme Court—they are not bound by decisions of other district courts.”). Nor is this Court

⁷ *Cf. United States v. Sgarlat*, 705 F. Supp. 2d 347, 359 (D.N.J. 2010) (holding that the Government does not have an obligation under *Brady* to disclose exculpatory evidence before an indictment); *United States v. Smith*, 824 F. Supp. 420, 424 (S.D.N.Y. 1993) (same).

persuaded that the Supreme Court has extended its holding in *United States v. Ruiz*, 536 U.S. 622 (2002),⁸ upon which the *Sgarlat* court relies, beyond impeachment materials to exculpatory materials under *Brady*. It is well-settled under Tenth Circuit authority that the Government's disclosure obligations under *Brady* "continues throughout the judicial process." *Douglas v. Workman*, 560 F.3d 1156, 1173 (10th Cir. 2009) (citing *Smith v. Roberts*, 115 F.3d 818, 820 (10th Cir.1997)). And there is at least some Tenth Circuit authority that favors the view that the Constitution requires the Government to provide a defendant directly exculpatory information before that defendant pleads guilty. See *Freeman v. Att'y Gen.*, No. 20-cv-00910-JB-SCY, 2023 WL 5320041, at *6 n.6 (D.N.M. Aug. 18, 2023), *report and recommendation adopted sub nom. Freeman v. Martinez*, 2023 WL 7151075 (D.N.M. Oct. 31, 2023). There also appears to be no clear weight of authority as to whether the Government is excused from its *Brady* obligations during pre-indictment plea negotiations. *Id.* Given Ms. Lattany's pro se status and the lack of any robust argument with respect to important constitutional principles, this Court respectfully declines to draw a brightline rule that the Government's obligations to disclose exculpatory materials pursuant to *Brady* never arises pre-indictment—particularly during plea negotiations.

⁸ In *Ruiz*, the Supreme Court addressed the issue of whether the Constitution requires the Government, prior to indictment, to disclose "*impeachment* information relating to any informants or other witnesses." *Ruiz*, 536 U.S. at 625 (emphasis added). The *Ruiz* Court did not address exculpatory information under *Brady* because the proposed plea agreement specified that "any known information establishing the factual innocence of the defendant has been turned over to the defendant, and it acknowledges the Government's continuing duty to provide such information." *Id.* (internal quotations and brackets omitted). In at least one circumstance, a panel of Tenth Circuit recognized that *Ruiz*, in and of itself, did not extend to exculpatory evidence. *United States v. Ohiri*, 133 F. App'x 555, 562 (10th Cir. 2005).

Nevertheless, this Court concludes, based on the record before it, that Ms. Lattany has failed to demonstrate a *Brady* violation. “To establish that a *Brady* violation undermines a conviction, a convicted defendant must make each of three showings: (1) the evidence at issue is favorable to the accused, either because it is exculpatory, or because it is impeaching; (2) the [Government] suppressed the evidence, either willfully or inadvertently; and (3) prejudice ensued.” *Skinner v. Switzer*, 562 U.S. 521, 536 (2011) (internal quotations and citations omitted). Ms. Lattany has failed to persuade this Court that any of the evidence she identifies at issue—e.g., an email from the state accountant indicating that funds were owed to her—exculpate her from the wire fraud charges of which she was convicted or could have prejudiced her. Indeed, Ms. Lattany expressly admitted her culpability to this Court through her Plea Agreement,⁹ during the Change of Plea hearing,¹⁰ and during her colloquy with the Court during her Sentencing hearing:

[A]s far as with the federal government, and I do take full responsibility of that, but, Your Honor, I just ask that you look at it, from a standpoint of me, just trying to take care of the people around me...

But I do take responsibility for what I have done, because I did do wrong, and I did lie on the applications.

[Doc. 111-1 at 14:3–6, 14:13–14]. Accordingly, this Court respectfully concludes that Ms. Lattany has not shown any violation of *Brady v. Maryland* that would justify habeas relief under 28 U.S.C. § 2255.¹¹

⁹ [Doc. 13 at 7–15].

¹⁰ [Doc. 60 at 14:11–18].

¹¹ The Government also argues that Ms. Lattany has procedurally defaulted on her *Brady* violation argument by failing to directly appeal it. [Doc. 61 at 6–7]. The Court need not reach this argument, having concluded that Ms. Lattany has not shown a *Brady* violation.

II. Ineffective Assistance of Counsel

This Court next turns to Ms. Lattany's various arguments that she is entitled to habeas relief because but for her former counsel's ineffective assistance of counsel she "would not have taken a plea deal and would have went to trial[.]" [Doc. 62 at 2]. "[T]o prevail on a claim of ineffective assistance, '[f]irst, the defendant must show that counsel's performance was deficient. . . . Second, the defendant must show that the deficient performance prejudiced the defense.'" *Ellis v. Raemisch*, 872 F.3d 1064, 1083 (10th Cir. 2017) (quoting *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984)).

Under the first prong, there is a strong presumption that counsel rendered adequate assistance, which is overcome only upon a showing that the performance was "outside the wide range of professionally competent assistance"—conduct that is "completely unreasonable, not merely wrong." *Byrd v. Workman*, 645 F.3d 1159, 1168 (10th Cir. 2011). "As for the prejudice prong, the defendant must establish a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different." *Barkell v. Crouse*, 468 F.3d 684, 689 (10th Cir. 2006) (internal quotation marks omitted). When, as here, a defendant's conviction results from a guilty plea she must demonstrate that the ineffective assistance "affected the outcome of the plea process," meaning that but for counsel's ineffectiveness she would not have pleaded guilty and would have insisted on trial. See *Miller v. Champion*, 262 F.3d 1066, 1072 (10th Cir. 2001) (quotation and emphasis omitted). The Court may consider these prongs in any order because a failure on either prong is fatal to a claim of ineffective assistance. See *Boyd v. Ward*, 179 F.3d 904, 914 (10th Cir. 1999).

As an initial matter, insofar as Ms. Lattany contends that Mr. Flores-Williams's purported ineffective assistance impacted her state prosecution and sentence, such arguments must be raised first to the Colorado Court of Appeals and then through a proceeding pursuant to 28 U.S.C. § 2254. See *Lattany v. Colorado*, Civil Action No. 23-cv-03027-LTB-SBP (D. Colo. June 13, 2024) [ECF No. 35; ECF No. 38] (dismissing Ms. Lattany's § 2254 petition).

With respect to her allegations that Mr. Flores-Williams failed to adequately inform her regarding the consequences of her guilty plea with respect to her sentencing in this case, this Court focuses on the second, prejudice prong. That prong looks to whether Ms. Lattany has established a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different and that she would not have pleaded guilty and would have insisted on trial. See *Miller*, 262 F.3d at 1072. Ms. Lattany's mere allegation that she would have insisted on trial absent counsel's errors are insufficient; the Court must consider the "factual circumstances surrounding the plea to determine whether the [defendant] would have proceeded to trial." *Heard v. Addison*, 728 F.3d 1170, 1183–84 (10th Cir. 2013).

Based on the record before it, this Court is respectfully unpersuaded that Ms. Lattany has carried her burden to establish that but for the various alleged errors by Mr. Flores-Williams, she would have insisted on trial. Despite the number of applications and wire transfers associated with her fraudulent scheme, see [Doc. 13 at 7–15], Ms. Lattany was ultimately only charged with one count of wire fraud by Information, [Doc. 1]. Within nine days of the filing of the Information, Ms. Lattany waived her right to Indictment and filed a Notice of Disposition. [Doc. 5; Doc. 8]. Ms. Lattany then appeared before the

Court for a Change of Plea hearing. [Doc. 12]. In the Plea Agreement, Ms. Lattany was expressly advised:

The parties understand that the Court is free, upon consideration and proper application of all 18 U.S.C. § 3553 factors, to impose that reasonable sentence which it deems appropriate in the exercise of its discretion and that such sentence may be less than that called for by the advisory guidelines (in length or form), within the advisory guideline range, or above the advisory guideline range up to and including imprisonment for the statutory maximum term, regardless of any computation or position of any party on any 18 U.S.C. § 3553 factor.

[Doc. 13 at 17].

During that Change of Plea hearing, the Court specifically advised Ms. Lattany that she was not bound by the Plea Agreement until it was accepted by the Court; that the Court would assume that Ms. Lattany understood the Court's questions and advisement unless Ms. Lattany informed the Court otherwise; and at any time, Ms. Lattany could request to speak in private to her attorney. [Doc. 60 at 6:20–7:10]. Ms. Lattany waived her right to remain silent under the Fifth Amendment and denied that she was subject to any condition that impaired her ability to understand what was happening during the proceedings. [*Id.* at 6:8–15, 7:18–8:2]. The Court then expressly confirmed with Ms. Lattany that she had read and understood the Plea Agreement and she admitted to the facts as reflected in the Plea Agreement. [*Id.* at 11:1–7, 14:11–18]. In addition, the prosecutor set out a summary of the factual basis of the plea of guilty. [*Id.* at 14:24–17:20]. Ms. Lattany made no objection to that recitation of facts. [*Id.* at 17:22–24].

With respect to sentencing, after advising Ms. Lattany about her waiver of certain constitutional rights, this Court—upon request by Ms. Lattany—recessed the proceeding to allow Ms. Lattany to speak with Mr. Flores-Williams about her questions related to sentencing. [Doc. 60 at 13:17–23]. Then, after the prosecutor set out elements of the

charge and the possible penalties for pleading guilty, the Court had the following colloquy with Ms. Lattany:

THE COURT: Ms. Lattany, do you understand the nature of the charge against you?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you believe that you are guilty of a crime with those elements?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Ms. Lattany, do you understand the consequences of you entering a plea of guilty, including the maximum sentence that I could impose?

THE DEFENDANT: Yes, Your Honor.

[*Id.* at 19:1–10]. After a discussion about calculations under the advisory United States Sentencing Guidelines, the Court expressly asked and Ms. Lattany answered:

THE COURT: All right. Ms. Lattany, you need to know that the estimated sentencing ranges that counsel just stated are only estimates based on the information known to date. It is possible that the presentence investigation report could contain additional information that would change that calculation. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Has your attorney explained to you that the Federal Sentencing Guidelines are merely advisory, and after your advisory guideline range has been determined, I have the authority in certain circumstances to depart upward or downward from that range?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you understand that that means that the sentence that I impose is entirely up to me as the judge?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you understand that even if you are disappointed with the sentence that I impose, that it will not be a basis for you to withdraw your plea of guilty?

THE DEFENDANT: Yes, Your Honor.

[*Id.* at 19:11–20:25 (emphasis added)]. Significantly, Ms. Lattany was repeatedly asked, and confirmed, that she had the opportunity to ask her attorney all the questions of her attorney that she wished, that she was satisfied with the services that Mr. Flores-Williams had provided her, and that he had fully advised her. [*Id.* at 8:14–19; 11:8–14; 22:23–23:4]. At the end of these advisements, the Court also confirmed that Ms. Lattany had no questions about what had been discussed, [*id.* at 22:16–18], and:

THE COURT: Having in mind all that we have discussed regarding the plea of guilty, the rights that you will be giving up, and the maximum sentence you could receive, do you still want to withdraw your plea of not guilty and enter a plea of guilty to the charge against you?

THE DEFENDANT: Yes, Your Honor.

[*Id.* at 23:5–11]. In light of the Court’s explanation of the Plea Agreement, its multiple advisements, and Ms. Lattany’s confirmation that she understood these advisements, this Court cannot conclude that her unsupported, conclusory allegation that she would have gone to trial but for Mr. Flores-Williams’s purportedly erroneously advisements is insufficient to establish prejudice. *See United States v. Hamilton*, 510 F.3d 1209, 1216 (10th Cir.2007); *United States v. Gordon*, 4 F.3d 1567, 1571 (10th Cir.1993); *Schumacher v. Ortiz*, 405 F. App’x 290, 293 (10th Cir. 2010).¹²

Forfeiture. It is not entirely clear what argument Ms. Lattany is making with regard to Mr. Flores-Williams’s alleged advice that she “put [her] home into a foreign trust through

¹² The Government’s citation of *Schumacher* contained a typographical error. [Doc. 111 at 3 (citing *Schumacher v. Ortiz*, 406 F. App’x 290, 293 (10th Cir. 2010))].

a company called Nevis located at Cook Islands (Raratonga) to protect me, so the Government could not take my home. Then Jason Flores-Williams went to the Government and offered my home to them, knowing that he advised me to put it into a foreign trust in Cook Island (Raratonga).” [Doc. 62 at 1–2].

Under 18 U.S.C. § 981(a)(1), “[a]ny property, real or personal” is subject to forfeiture if it “constitutes or is derived from proceeds traceable” to a violation of 18 U.S.C. § 1956. In turn, 18 U.S.C. § 1956 prohibits the use of proceeds from “specified unlawful activity” in a transaction. 18 U.S.C. § 1956(a)(1). “Specified unlawful activity,” through the incorporation of other statutory provisions, includes wire fraud in violation of 18 U.S.C. § 1343. 18 U.S.C. §§ 1956(c)(7)(A), 1961(1). To the extent that Ms. Lattany suggests that Mr. Flores-Williams rendered ineffective assistance of counsel by not permitting her to hide assets to avoid forfeiture—which could have led to separate criminal charges—this Court cannot find that such actions would constitute “completely unreasonable” advice. *Byrd*, 645 F.3d at 1168. And to the extent that Ms. Lattany seeks to contest the forfeiture, this Court notes that such a claim cannot be pursued through this action. See *United States v. Bergman*, No. 04-cr-00180-WJM, 2012 WL 1358514, at *2 (D. Colo. Apr. 19, 2012) (collecting cases).

CONCLUSION

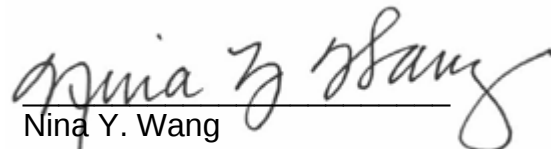
For the reasons set forth above, **IT IS ORDERED** that:

- (1) Defendant’s Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 [Doc. 46] is **DENIED**;
- (2) Defendant’s Amended 28 U.S.C. § 2255 [Doc. 62] is **DENIED**; and
- (3) A copy of this Order shall be sent to:

Dejane Reaniece Lattany
Inmate No. 51090-510
P.O. Box 27137
Carswell Federal Medical Center
Fort Worth, Texas 76127

DATED: June 6, 2025

BY THE COURT:



Nina Y. Wang
United States District Judge