

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 15 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

APRIL M. WILBUR,

Defendant - Appellant.

No. 12-30355

D.C. No. 2:09-cr-00191-MJP-3

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

C. MARVIN WILBUR, AKA Marvin
Wilbur, Sr.,

Defendant - Appellant.

No. 12-30356

D.C. No. 2:09-cr-00191-MJP-1

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRENDA R. WILBUR,

Defendant - Appellant.

No. 12-30357

D.C. No. 2:09-cr-00191-MJP-4

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOAN C. WILBUR,

Defendant - Appellant.

No. 12-30363

D.C. No. 2:09-cr-00191-MJP-2

Appeal from the United States District Court
for the Western District of Washington
Marsha J. Pechman, Chief District Judge, Presiding

Argued and Submitted November 6, 2013
Seattle, Washington

Before: SCHROEDER and PAEZ, Circuit Judges, and BENITEZ, District Judge.**

** The Honorable Roger T. Benitez, District Judge for the U.S. District Court for the Southern District of California, sitting by designation.

The Wilburs appeal the district court's denial of their joint motion to withdraw their guilty pleas following this court's remand for re-sentencing. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

The Wilburs' guilty pleas were conditioned upon their right to raise a due process challenge on direct appeal. They contend that a prior panel of this Court failed to consider their challenge.

The district court was correct in finding that a prior panel of this Court had fully considered and addressed the due process arguments, as evidenced by the opinion in *United States v. Wilbur*, 674 F.3d 1160, 1179 (9th Cir. 2012), and the Wilburs' petition for rehearing and the denial of that petition. That determination is sufficient to conclude that the district court did not abuse its discretion in denying the Wilburs' joint motion to withdraw their guilty pleas after remand.

AFFIRMED.