

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 10 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-15886

Plaintiff-Appellee,

D.C. Nos.

v.

2:19-cv-01267-MCE-EFB

2:16-cr-00045-MCE-EFB-2

RALEIGH RANA FIGUERAS,

MEMORANDUM\*

Defendant-Appellant.

Appeal from the United States District Court  
for the Eastern District of California  
Morrison C. England, Jr., District Judge, Presiding

Submitted February 8, 2022\*\*  
San Francisco, California

Before: HURWITZ and VANDYKE, Circuit Judges, and ERICKSEN,\*\* District Judge.

Appellant Raleigh Figueras appeals from a district court order denying his 28 U.S.C. § 2255 motion. Alleging ineffective assistance of counsel, Figueras

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Joan N. Erickson, United States District Judge for the District of Minnesota, sitting by designation.

challenges a sentence imposed after a guilty plea. We have jurisdiction under 28 U.S.C. §§ 1291 and 2255, and we affirm.

“We review de novo a district court’s decision to deny a motion under 28 U.S.C. § 2255. A claim of ineffective assistance of counsel raises a mixed question of law and fact, which we review de novo.” *United States v. Chacon-Palomares*, 208 F.3d 1157, 1158 (9th Cir. 2000) (internal citation omitted).

To establish ineffective assistance of counsel, Figueras must prove (1) “that counsel’s representation fell below an objective standard of reasonableness,” *Strickland v. Washington*, 466 U.S. 668, 688 (1984), and (2) that any such deficiency was “prejudicial to the defense,” *id.* at 692. We may consider either *Strickland* prong, and need not address both if a defendant makes an insufficient showing under one. *Id.* at 697; *see Schumway v. Washington*, 145 F.3d 1340, at \*2 (9th Cir. 1998). Here, we need address only the prejudice prong.

To satisfy the prejudice requirement, Figueras must demonstrate that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland*, 466 U.S. at 694. Where, as here, ineffective assistance is alleged to have led a defendant to accept a plea deal, a different result means that “but for counsel’s errors, [Figueras] would either have gone to trial or received a better plea bargain.” *United States v. Howard*, 381 F.3d 873, 882 (9th Cir. 2004); *see Lee v. United States*, 137 S. Ct. 1958, 1965 (2017).

Figueras “must convince the court that a decision to reject the plea bargain would have been rational under the circumstances.” *Padilla v. Kentucky*, 559 U.S. 356, 372 (2010).

Figueras, a legal permanent resident of the United States, pled guilty to possession of stolen U.S. mail in violation of 18 U.S.C. § 1708, for which he was sentenced to 12 months in prison. The conviction and resulting sentence of “at least one year,” 8 U.S.C. § 1101(a)(43)(G), made him “deportable” pursuant to 8 U.S.C. § 1227(a)(2)(A)(iii). Figueras contends that, but for his counsel’s ineffective assistance in not seeking a term of imprisonment of less than one year, he would have received a shorter prison sentence, thereby avoiding the immigration consequences he now faces.

The record does not support the conclusion that the sentencing judge would have given Figueras a shorter sentence had counsel sought one, nor that he would have proceeded to trial if his counsel acted differently. The same district judge presided over both sentencing and the § 2255 proceedings. In denying the § 2255 motion, that judge made clear that he “would not have imposed less than a twelve-month sentence ... just so [Figueras] could avoid immigration consequences.” The record also reflects that counsel “consistently” advised Figueras “that he would be deported ... as a result of pleading guilty ..., including [to] ... possession of stolen mail.” Figueras nevertheless chose to plead guilty, “understanding ... that he would

be deported.” Given Figueras’s criminal history and the apparent strength of the government’s case against him, this was a rational decision. *See Padilla*, 559 U.S. at 372.

**AFFIRMED.**