

Crim. No. 17-1107 (GAG)

1 Petitioner also claims ineffective assistance of counsel because his defense attorney in the
2 federal case failed to inform him of the Puerto Rico Supreme Court Sánchez-Valle ruling or that
3 the United States Supreme Court had granted certiorari thereof. He thus, posits that said
4 information was not only relevant but critical to his assessment of his litigation decisions.

I. Legal Analysis

5 In Sánchez Valle, “the Supreme Court took pains to acknowledge the ‘distinctive, indeed
6 exceptional, status as a self-governing Commonwealth’ that Puerto Rico occupies today, . . . the
7 issue presented in that case—whether Puerto Rico and the United States are different sovereigns
8 for purposes of the dual-sovereignty doctrine—compelled the Court to look . . . to the distant past
9 to ascertain ‘the ‘ultimate source’ of Puerto Rico’s prosecutorial power.” United States v.
10 Maldonado-Burgos, 844 F.3d 339, 344–45 (1st Cir. 2016) (quoting Sánchez-Valle, 136 S.Ct. at
11 1874.)

12 The Supreme Court held that for purposes of the Double Jeopardy Clause, the Puerto Rico
13 and United States governments constitute a single sovereign, in as much as the former’s power to
14 prosecute derives from the latter’s. Thus, the Commonwealth’s prosecution, conviction, and
15 sentence of an individual bars his subsequent prosecution by federal authorities for the same
16 conduct under equivalent criminal law. See United States v. Colón, No. 15-396 (GAG), 2016 WL
17 5793727, at *1 (D.P.R. Oct. 4, 2016).

18 If an entity’s authority to enact and enforce criminal law ultimately comes from
19 Congress, then it cannot follow a federal prosecution with its own. That is true of
20 Puerto Rico, because Congress authorized and approved its Constitution, from
21 which prosecutorial power now flows. ***So the Double Jeopardy Clause bars both
22 Puerto Rico and the United States from prosecuting a single person for the same
23 conduct under equivalent criminal laws.***

24 Sánchez-Valle, 136 S.Ct. at 1877 (emphasis added).

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1 Title 28 U.S.C. § 2255 establishes a “1–year period of limitation” within which a federal
2 prisoner may file a habeas motion to vacate, set aside, or correct his sentence under that section.
3 See Dodd v. United States, 545 U.S. 353, 354, 125 S. Ct. 2478, 2480 (2005).

4 A 1–year period of limitation shall apply to a motion under this section. The
5 limitation period shall run from the latest of—

6 (1) the date on which the judgment of conviction becomes final;

7 (2) the date on which the impediment to making a motion created by governmental
8 action in violation of the Constitution or laws of the United States is removed, if
9 the movant was prevented from making a motion by such governmental action;

10 (3) the date on which the right asserted was initially recognized by the Supreme
11 Court, if that right has been newly recognized by the Supreme Court and made
12 retroactively applicable to cases on collateral review; or

13 (4) the date on which the facts supporting the claim or claims presented could have
14 been discovered through the exercise of due diligence.

15 § 2255 (f). Petitioner requests habeas relief in light of the “new recognized right” in Sánchez
16 Valle. The Supreme Court did not expressly declare its ruling would apply retroactively. See
17 Tyler v. Cain, 533 U.S. 656, 668 (2001) (O’Connor, J., concurring) (noting that a rule has been
18 made retroactive by the Supreme Court if the Court expressly declares it retroactive or issues
19 multiple holdings that “logically dictate . . . retroactivity”). With certain narrow exceptions,
20 federal courts are prohibited from granting habeas petitioners relief on the basis of “new” rules of
21 constitutional law established after their convictions become final. Teague v. Lane, 489 U.S. 288,
22 310 (1989); Bradshaw v. Stumpf, 545 U.S. 175, 190, 125 S. Ct. 2398, 2409, 162 L. Ed. 2d 143
23 (2005).

24 Sánchez-Valle’s prospective impact on the prosecution of crimes in Puerto Rico is
uncontested. However, absent an express declaration, or a logical hint from the Supreme Court,
this Court cannot pronounce its retroactivity. Simply put, Sánchez-Valle did not trigger the
renewal of the statute of limitations period for a collateral attack of Petitioner’s conviction.

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1 Sánchez-Valle was decided by the United States Supreme Court on June 9, 2016, eight months
2 after Petitioner's sentencing. As such, Sánchez-Valle does not currently apply to Petitioner's
3 conviction. More so, counsel cannot be deemed to have acted ineffectively by not making a
4 Sánchez-Valle argument, when that was not the law.

5 Santana-Rios was sentenced by the undersigned on October 19, 2015, judgment was
6 entered the following day. Santana-Rios petitioned for this Court for habeas relief on December
7 7, 2016, one year and one month and seventeen days after the entry of judgment was entered.
8 Thus, Petitioner's request for habeas relief is also time-barred.

9
10 In light of the above, Petitioner Santana-Rios' Motion to Vacate, Set Aside or Correct
11 Sentence pursuant to 28 U.S.C. § 2255 is **DENIED**. Petitioner is not entitled to habeas relief.

12 **CERTIFICATE OF APPEALABILITY**

13 It is further ordered that in the event that petitioner files a notice of appeal, a certificate of
14 appealability should be issued considering that but for the novel issue regarding the retroactivity
15 of the Sánchez-Valle ruling, Petitioner has made a substantial showing of a violation of the Double
16 Jeopardy Clause within the meaning 28 U.S.C. § 2253(c)(2).

17 **SO ORDERED.**

18 In San Juan, Puerto Rico this 30th day of January, 2017.

19 *s/ Gustavo A. Gelpí*
20 GUSTAVO A. GELPI
21 United States District Judge
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