

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

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1 **At a stated term of the United States Court of Appeals for the Second Circuit,**
2 **held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of**
3 **New York, on the 26th day of April, two thousand twenty-four.**

4
5 **PRESENT:**

6 **GUIDO CALABRESI,**
7 **BARRINGTON D. PARKER,**
8 **MICHAEL H. PARK,**
9 ***Circuit Judges.***

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12 **Christian Sanchez, Wilson Pagan,**
13 ***Petitioner-Appellant,***

14 **v.**

15
16 **United States of America,**
17 ***Respondent-Appellee.***

**21-1335(L), 22-1527(CON),
22-1535(CON), 22-1569(CON),
22-1813(CON)**

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22 **United States of America,**
23 ***Appellee,***

24 **v.**

25
26 **Wilson Pagan, AKA King Gunz, Christian**
27 **Sanchez, AKA King Chi Chi,**
28 ***Defendants-Appellants.****

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* Case Nos. 22-1535 and 22-1569 are determined by this summary order. The remaining cases have been previously determined.

1 **FOR APPELLANT:** Randa D. Maher, Esq., Great Neck, NY.
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3 **FOR APPELLEE:** Michael D. Maimin, Stephen J. Ritchin, Assistant
4 United States Attorneys, *for* Damian Williams,
5 United States Attorney for the Southern District of
6 New York, New York, NY.
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8 Appeal from a judgment of the United States District Court for the Southern District of
9 New York (Seibel, *J.*).

10 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND**
11 **DECREED** that the judgment of the district court is **AFFIRMED**.

12 Appellant Christian Sanchez was convicted on 19 counts for crimes involving racketeering,
13 assault, murder, narcotics, use and possession of firearms, and attempted tampering with an
14 informant. He was sentenced to seven concurrent terms of life, other concurrent terms, one
15 consecutive term of 10 years, and four consecutive terms of 25 years, for an aggregate term of life
16 plus 110 years of imprisonment. After this Court affirmed Sanchez’s convictions on direct
17 appeal, Sanchez filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence,
18 making claims of ineffective assistance of counsel, double jeopardy, and the unconstitutional
19 vagueness of 18 U.S.C. § 924(c). The district court denied his ineffective assistance claim,
20 vacated three counts of conviction on double jeopardy grounds, and held in abeyance his challenge
21 to section 924(c) pending *United States v. Davis*, 139 S. Ct. 2319 (2019). It resentenced Sanchez
22 to five concurrent terms of life, other concurrent terms, one consecutive term of five years, and
23 four consecutive terms of 25 years, for an aggregate term of life plus 105 years of imprisonment.
24 After *Davis* was decided, the district court vacated the conviction and sentence for Count 30, but
25 declined to resentence Sanchez on the remaining counts—Counts 37, 39, and 40—for which the

1 sentences ran consecutively to his concurrent life sentences, resulting in an aggregate term of life
2 plus 80 years of imprisonment. It also declined to decide whether section 403(b) of the First Step
3 Act, the “anti-stacking” provision, would apply at a plenary resentencing.

4 Sanchez appeals, claiming that the district court abused its discretion in declining to
5 conduct plenary resentencing, which could have resulted in a sentence of life plus 35 years rather
6 than life plus 80 years if he were resentenced under the First Step Act’s revised sentencing
7 guidelines. We assume the parties’ familiarity with the underlying facts, the procedural history
8 of the case, and the issues on appeal.

9 “We review *de novo* a district court’s denial of a § 2255 motion.” *Kassir v. United States*,
10 3 F.4th 556, 561 (2d Cir. 2021). “A § 2255 motion challenges the prisoner’s being in custody,
11 and relief may be afforded only when the prisoner claims ‘the right to be released.’” *Al-’Owhali*
12 *v. United States*, 36 F.4th 461, 465 (2d Cir. 2022) (quoting 28 U.S.C. § 2255(a)).

13 Under the concurrent-sentence doctrine, “an appellate court affirming a conviction and
14 sentence may, in its discretion, choose not to hear a challenge to a conviction on another count if
15 that second conviction carries a sentence that is equal to or less than the affirmed conviction.”
16 *Dhinsa v. Krueger*, 917 F.3d 70, 75-76 (2d Cir. 2019) (cleaned up). “The doctrine is a rule of
17 judicial convenience that conserves judicial resources when, regardless of the outcome, the
18 prisoner will remain in jail for the same length of time.” *Al-’Owhali*, 36 F.4th at 466. “As a
19 species of harmless-error analysis, it allows a court to avoid unnecessary adjudication of issues
20 and unnecessary pronouncements of law by reserving judgment only for issues that, once resolved,
21 have some practical effect.” *Id.* (quotation marks omitted).

1 “[T]he concurrent sentence doctrine applies to a collateral challenge to a conviction for
2 which the sentence runs consecutively to one or more unchallenged life sentences.” *Id.* at 467.
3 “We have discretion to apply the doctrine when . . . (1) the collateral challenge will have no effect
4 on the time the prisoner must remain in custody and (2) the unreviewed conviction will not yield
5 additional adverse collateral consequences.” *Id.* “[C]ourts may look to the so-called *Vargas*
6 factors to determine whether to rely on the concurrent sentence doctrine.” *Kassir*, 3 F.4th at 568.
7 “These five factors—the unreviewed conviction’s effect on the petitioner’s eligibility for parole,
8 the future application of recidivist statutes for a future offense by the petitioner, the petitioner’s
9 credibility in future trials, the possibility of pardon, and societal stigma of a conviction—provide
10 helpful guideposts for discerning the impact of a decision to leave a conviction unreviewed.” *Id.*

11 Exercising our discretion under the concurrent-sentence doctrine, we decline to reach the
12 merits of Sanchez’s claims. Sanchez is currently serving five concurrent life sentences, all of
13 which we affirmed on direct appeal, and none of which was collaterally challenged in the district
14 court or here. Sanchez does not challenge his convictions but instead argues that he is entitled to
15 plenary resentencing on three counts. But resentencing on those counts would make no practical
16 difference because, even if he is correct, Sanchez would still receive a sentence of life plus 35
17 years.

18 Additionally, none of the concerns considered by the *Vargas* factors is present here, so
19 “there is no meaningful possibility that [Sanchez’s] unreviewed [convictions] will expose him to
20 substantial risk of adverse collateral consequences.” *Id.* First, the unreviewed convictions will
21 have no effect on Sanchez’s eligibility for future parole because his unchallenged life sentences
22 are all without parole. *United States v. Delgado*, 971 F.3d 144, 159 (2d Cir. 2020) (“Since there

1 is no parole in the federal system, [Sanchez’s] sentence is effectively the same as a life-without-
2 parole sentence in state court systems.”). Second, Sanchez is unlikely to be subject to recidivist
3 statutes for a future offense because he “is already in prison for life.” *Al-’Owhali*, 36 F.4th at 468.
4 Third, “the unreviewed conviction[s] [are] unlikely to be used to impeach his character at a future
5 trial or affect his chances for a potential pardon,” *id.*, because Sanchez remains convicted on
6 several other counts for his role in racketeering, murder, assault, and narcotics distribution.
7 Fourth, Sanchez is unlikely to be subject to “societal stigma” of the unreviewed convictions
8 “especially in comparison to the stigma already carried by his [unchallenged] convictions[s].”
9 *Kassir*, 3 F.4th at 568. There is no meaningful stigmatic difference between a sentence of life
10 plus 80 years and a sentence of life plus 35 years.

11 We have considered all of Sanchez’s remaining arguments and find them to be without
12 merit. For the foregoing reasons, the judgment of the district court is **AFFIRMED** without
13 prejudice to Sanchez renewing his claims if he is authorized to challenge the validity of his life
14 sentences in the future.

15 FOR THE COURT:
16 Catherine O’Hagan Wolfe, Clerk of Court