

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted March 21, 2025*

Decided March 24, 2025

Before

MICHAEL B. BRENNAN, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

Nos. 24-1512, 24-1665, 24-1666

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

BERNARDINO RIBOTA,
Defendant-Appellant.

Appeals from the United States District
Court for the Northern District of
Illinois, Eastern Division.

Nos. 02-CR-1165; 13-CR-808

Robert W. Gettleman,
Judge.

ORDER

While on pretrial release, Bernardino Ribota absconded and became a fugitive for nearly a decade. The district court then entered a default judgment for Ribota's bond, secured by the equity in his house. Although Ribota was eventually caught, he later

* We have agreed to decide the cases without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

pleaded guilty to contempt of court, *see* 18 U.S.C. § 401(3), and moved, unsuccessfully, to have the default judgment remitted. We affirm.

In 2002, federal agents searched Ribota's house and found guns and 25 kilograms of cocaine. He was arrested and charged (in case number 02-CR-1165) with possession with intent to distribute more than five kilograms of cocaine, *see* 21 U.S.C. § 841(a)(1), and possession of a firearm in furtherance of a drug trafficking crime, *see* 18 U.S.C. § 924(c). Ribota posted bail and signed a bond-forfeiture agreement acknowledging that his failure to appear would result in the forfeiture of \$50,000, secured by his equity in his house. The district court, in a pretrial-release order, directed Ribota to stay within the Northern District of Illinois and report to pretrial services.

Ribota then fled and became a fugitive. The court revoked Ribota's bond and issued a bench warrant. Upon successive motions by the government, the court declared the bond forfeited and entered a default judgment against Ribota for the \$50,000. Ribota's house was eventually sold to satisfy the \$50,000 bond. Because his equity in the property was only \$31,575, a deficiency of \$18,425 remained.

Ribota was apprehended in 2012. The government, conceding that evidence had been seized unlawfully, moved to dismiss the indictment. The court granted the motion and dismissed the indictment.

In 2013, a grand jury indicted Ribota (in case number 13-CR-808), this time on two counts of contempt of court, 18 U.S.C. § 401(3), arising out of his disregard of the court's directive that he remain within the Northern District of Illinois and report to pretrial services. Ribota moved, unsuccessfully, to dismiss this indictment, which, he argued, was based on prosecutorial vindictiveness. He then pleaded guilty to the contempt charges, reserving the right to appeal the denial of his motion to dismiss the indictment. He was sentenced to 48 months' imprisonment and 2 years' supervised release. We affirmed. *United States v. Ribota*, 792 F.3d 837, 842 (7th Cir. 2015).

Meanwhile, the government tried to collect the outstanding sum owed on Ribota's \$50,000 bond forfeiture. The government informed Ribota that he still had a \$18,425 deficiency. When no payment was forthcoming, the government began garnishing Ribota's Social Security payments.

In 2023, Ribota moved to set aside or remit the bond forfeiture. The district court denied the motion. The court noted that Rule 46(f)(1) of the Federal Rules of Criminal

Procedure requires forfeiture if a bond condition has been breached, and Ribota unquestionably had violated the conditions of his bond. The court declined to set aside the forfeiture because “remitting the forfeiture would undermine the deterrence value of bail bonds in ensuring adherence to the conditions of the bond, both generally and in [Ribota’s] case.” Lastly, the court rejected as irrelevant Ribota’s argument that it lacked subject matter jurisdiction to sentence him for contempt because those charges were based on elements from the dismissed indictment.

On appeal, Ribota maintains that the district court lacked jurisdiction to enter the bond forfeiture after the dismissal of the indictment in the earlier proceeding. But a bond agreement is a “civil contract between the government and the surety on behalf of a criminal defendant.” *United States v. Torres*, 807 F.3d 257, 262 (7th Cir. 2015). Ribota’s obligation to repay the \$50,000 arose not from the charges in his prior indictment, but his contractual agreement in his bond-forfeiture agreement. To the extent Ribota challenges the district court’s denial of his motion to remit the bond forfeiture, we see no abuse of discretion. Ribota breached his bond agreement by absconding, so the court had no choice but to forfeit the bond. *See* FED. R. CRIM. P. 46(f)(1); *Torres*, 807 F.3d at 261.

Ribota next argues that the court abused its discretion when it entered the default judgment. But if the forfeiture is not set aside, the federal rules require the court—upon the government’s motion, as here—to enter a default judgment. FED. R. CRIM. P. 46(f)(3)(A). Here, the court could not set aside Ribota’s forfeiture because he did not surrender into custody. *See id.* 46(f)(2)(A). Further, a court has the discretion to set aside a default judgment, *see id.* 46(f)(4), and here the court appropriately declined to do so, given the deterrence value of bail bonds in ensuring that Ribota and others adhere to the conditions of the bond.

Ribota next raises two related challenges to his contempt-of-court conviction. First, he argues that the conviction was improperly based on his dismissed indictment. He also decries his sentence as excessive because the contempt-of-court statute, 18 U.S.C. § 401(3), does not authorize imprisonment as a punishment.

But to the extent Ribota seeks to collaterally attack his contempt-of-court conviction and sentence, he may not do so without a certificate of appealability. 28 U.S.C. § 2253(c)(1); *see Gonzalez v. Thaler*, 565 U.S. 134, 142 (2012). The district court did not issue a certificate of appealability, and Ribota has not expressly requested one. Even if we construe his notice of appeal as an implicit request, *see* FED. R. APP. P. 22(b)(2); *Williams v. United States*, 150 F.3d 639, 640 (7th Cir. 1998), his time to challenge

the validity of this conviction has long passed. *See* 28 U.S.C. § 2255(f)(1) (prescribing one-year statute of limitations); *Coleman v. United States*, 79 F.4th 822, 826 (7th Cir. 2023).

AFFIRMED