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States Court of Appeals  
for the Third Circuit

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4-17-2003

## USA v. Hurtado

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 02-2815  
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UNITED STATES OF AMERICA

v.

DIANA HURTADO,

Appellant

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(D.C. No. 01-cr-00133-2)  
District Court Judge: Hon. James T. Giles

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Submitted under Third Circuit LAR 34.1(a)  
April 7, 2003

Before: ALITO, FUENTES, and GREENBERG, Circuit Judges

(Opinion Filed: April 17, 2003)

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OPINION OF THE COURT  
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PER CURIAM:

This is an appeal from an order of the District Court sentencing the appellant to a term of imprisonment and probation for violating conditions of supervised release. On appeal, the defendant contends that her attorney provided ineffective assistance of counsel at the hearing held to determine whether the conditions of release had been violated.

It is well established that “[c]laims of ineffective assistance of counsel should ordinarily be raised in a collateral proceeding under 28 U.S.C. § 2255.” United States v. Oliva, 46 F.3d 320, 325 (3d Cir. 1995). We have recognized an exception, however, where the ineffective assistance of counsel claim is predicated on an actual showing of conflict of interest between the attorney and the accused and where the conflict is apparent from the face of the record. United States v. Jake, 281 F.3d 123, 132 n.7 (3d Cir. 2002). After carefully considering the defendant’s arguments, we hold that this exception is not satisfied in this case. See United States v. Gambino, 788 F.2d 938 (3d Cir. 1986).

We have considered all of the appellant’s arguments and find no ground for reversal. For these reasons, we affirm the decision of the District Court. This decision does not preclude the defendant from asserting her ineffective assistance of counsel claim in a collateral proceeding if she chooses.