

**UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT**

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No. 01-21224

(Summary Calendar)

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES DONALD LONG,

Defendant - Appellant.

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Appeal from the United States District Court  
For the Southern District of Texas  
USDC No. H-99-CR-157-ALL

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September 4, 2002

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

James Donald Long appeals his sentence imposed following the revocation of his supervised release. He argues that his sentence should be vacated and the matter remanded for resentencing

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\*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

because the district court failed to afford him the right to allocution upon sentencing him, in violation of FED. R. CRIM. P. 32(c)(3)(C).

Rule 32(c)(3)(C) requires that the district court “address the defendant personally and determine whether the defendant wishes to make a statement and to present any information in mitigation of the sentence” prior to imposing sentence. “This court reviews whether a district court complied with Rule 32(c)(3)(C) *de novo*.” *United States v. Dabeit*, 231 F.3d 979, 981 (5th Cir. 2000), *cert. denied*, 531 U.S. 1202 (2001). A sentencing court’s failure to comply with the allocution provision of Rule 32 is not reviewed for harmless or plain error, but instead requires automatic reversal. *Id.*

In *United States v. Rodriguez*, 23 F.3d 919, 921 (5th Cir. 1994), we held that Rule 32 “required that [the defendant] be given the right to allocute when the district court imposed sentence[,]” following revocation of supervised release. The record herein reflects, and the parties agree, that the district court did not afford Long the right to allocution prior to imposing sentence upon revocation of his supervised release. Accordingly, we VACATE Long’s sentence and REMAND this matter for resentencing. *See Dabeit*, 231 F.3d at 981-82; *Rodriguez*, 23 F.3d at 921.

VACATED and REMANDED.